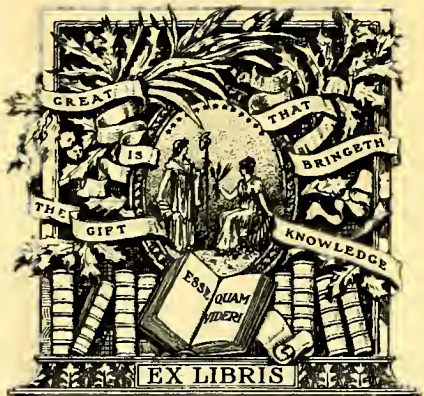

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United States Circuit Court,

Western District of North Carolina.

IN EQUITY.

THE UNITED STATES

against

WILLIAM H. THOMAS, W. L. HILLIARD, AND OTHERS.

} *Bill.*

In Equity.

To the HONORABLE THE JUDGES OF THE CIRCUIT COURT OF THE UNITED STATES *for the Western District of North Carolina:*

The United States of America brings this its bill against William H. Thomas, W. L. Hilliard, guardian, William Johnston, James W. Terrell, Thomas D. Johnston, John Q. Smith, Penn Kline, alias W. P. Hyde, David Johnson, Geo. W. Gibson, Christianberry Howell, Tabitha Tompkins, Thomas Mills, J. H. Mosely, A. H. Hayes, H. A. Keener, E. S. Keener, Berry Cooper, D. W. (or Bose) Love, J. B. Keener, John R. Kimsey, H. S. Baker, Bartlett Dills, W. A. Enloe, Humphrey Childers, I. M. Hensley, M. C. Hensley, T. W. Keener, Eliza Keener, Albert S. Keener, H. P. Childers, Arminda Wilson, Nimrod Childers, Landon Tompkins, C. C. Martin, W. C. Martin, A. Keener, John M. Enloe, N. R. Kinsey, T. C. Childers, Wm. H. Thomas, jr., Jackson Williams, John Enloe, Susannah E. Hyde, Cling Childers, Mary E. Hyde, W. H. Enloe, Ute Sherrell, Wm. Cooper, Carroll Martin, George Sherrell, Uriah Cooper, Robert Burchfield, Joseph Keener, John Kimsey, Smith Baker, Blue Baker, Baker the elder, ——— Putman, George Keener, Will Laney, Will Davis, ——— McNesia, ——— Winchester, Coleman Scea, James Edwards, Andrew Burchfield, Harrison Coleman, Richard Dills, Ramsey Gibson, Budd Johnson, Eliza Tomkins, Bill Moseley, Budd Parker, Andrew Shields, I. V. Cooper, Reuben Carver,

D. K. Blanton, A. B. Hyatt, Tyra Higdon, John Grant, James G. Brooks, Martin Parker, Isaac Lovinggood, Benjamin Killian, James Williamson, John Graves, John Dockery, Wm. Cline, N. O. Rabb, Gus Bradley, Dewitt Ghomley.

And thereupon your orator complains and says:

I. That heretofore, to wit, on the 29th of December, 1835, a treaty (7 Stats., 478) was made and concluded between your orator and the Chiefs, Head-men, and People of the Cherokee tribe of Indians, at New Echota, in the State of Georgia, and was duly ratified and proclaimed; that the principal object of the said treaty was to effect the removal of the said tribe of Indians from the territory then occupied by them east of the river Mississippi to a region of country set apart for them west of the said river; that the said treaty also provided (article 12) that "those individuals and families of the Cherokee nation that are averse to a removal to the Cherokee country west of the Mississippi and are desirous to become citizens of the States where they reside, and such as are qualified to take care of themselves and their property, shall be entitled to receive their due portion of all the personal benefits accruing under this treaty for their claims, improvements, and *per capita*, as soon as an appropriation is made for this treaty"; that in pursuance of this article of the treaty, Congress, by the fourth and fifth sections of an act approved 29th July, 1848 (9 Stats., 264), entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with the various Indian tribes for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes," provided as follows:

> SEC. 4. *And be it further enacted*, That the Secretary of War cause to be ascertained the number and names of such individuals and families, including each member of every family of the Cherokee Nation of Indians, that remained in the State of North Caro-

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lina at the time of the ratification of the treaty of New Echota, May twenty-three, eighteen hundred and thirty-six, and who have not removed west of the Mississippi, or received the commutation for removal and subsistence, and report the same to the Secretary of the Treasury; whereupon the Secretary of the Treasury shall set apart, out of any moneys in the Treasury not otherwise appropriated, a sum equal to fifty-three dollars and thirty-three cents for each individual ascertained as aforesaid, and that he cause to be paid to every such individual, or his or her legal representative, interest at the rate of six per cent. per annum on such per capita, from the said twenty-third day of May, eighteen hundred and thirty-six, to the time of the passage of this act, and continue annually thereafter said payment of interest, at the rate aforesaid.

SEC. 5. *And be it further enacted*, That whenever, hereafter, any individual or individuals of said Cherokee Indians shall desire to remove and join the tribe west of the Mississippi, then the Secretary of War shall be authorized to withdraw from the fund set apart as aforesaid the sum of fifty-three dollars and thirty-three cents and the interest due and unpaid thereon, and apply the same, or such part thereof as shall be necessary, to the removal and subsistence of such individual or individuals, and pay the remainder, if any, or the whole, if the said Indians or any of them shall prefer to remove themselves, to such individuals or heads of families upon their removal west of the Mississippi: *Provided*, That the amount herein required to be funded for the benefit of the said Cherokees in North Carolina and the amount required to be paid them shall be charged to the general Cherokee fund, under the treaty of New Echota, and shall be reimbursed therefrom.

II. And your orator avers that Congress, in the exercise of the discretion conferred on it by the said twelfth article, having concluded, and so provided by the said act of 29th July, 1848, that it was best for the members of the tribe who had chosen to remain in the State of North Carolina that the principal of the *per capita* money coming to them under the said twelfth article should not be paid to them, but should be held by your orator, and that your orator should pay them interest on the said money at the rate of 6 per cent. per annum from the 23d of May, 1836, to the date of said act, and annually thereafter, your orator avers that the effect of the said twelfth article and

the said aet of the 29th July, 1848, was to make your orator a trustee of the said money for the benefit of the said Indians, and to clothe your orator with unusual duties and responsibilities, in view of the helpless and dependent eondition of those for whom the trust was established; and your orator avers that Congress, with a sense of the peeuliar duties and responsibilities of your orator in the premises, and in further reeognition of the said trust, deelared by the third seetion of an act approved the 27th July, 1868, entitled "An aet to transfer to the Department of the Interior eertain powers and duties now exercised by the Seeretary of the Treasury in eonnection with Indian affairs" (15 Stat., 228), "That hereafter the Secretary of the Interior shall eause the Commissioner of Indian Affairs to take the same supervisory charge of the Eastern or North Carolina Cherokees as of other tribes of Indians;" and, as a further reeognition of the trust that had been devolved upon your orator as aforesaid, Congress, by an act approved 3d March, 1875 (18 Stat., 447), directed that the fund set apart for the said Indians by the said act of the 29th July, 1848, should be applied, under the direetion of the Secretary of the Interior, to perfect the titles of lands which had been then reeently awarded the said Indians by decree of the eireuit eourt of the United States for the western district of North Carolina; to the payment of such costs of certain litigation as the said Seeretary might deem properly chargeable to them; to purchasing and extinguishing the titles of any white persons within the general boundaries allotted to the said Indians by the said deeree; and to the education, improvement, and civilization of the said Indians; and your orator avers that, in further exeeution of the said trust, Congress enacted the following provision as part of an aet approved 15th August, 1876 (19 Stat., 197, 198):

> That the balance of the fund of the Eastern Band of Cherokee Indians, appropriated by the act of March third, eighteen hundred and seventy-five, shall, upon the first day of July, eighteen hundred and seventy-six, be placed to their credit upon the books of

> the Treasury Department, and shall bear interest at the rate of five per centum per annum; and the Secretary of the Interior is hereby authorized to use annually for agricultural implements and for educational purposes among said Indians so much of the principal of said fund as, with the interest annually accruing thereon, shall amount to six thousand dollars; and three hundred dollars of said sum shall be paid to the superintendent of common schools in North Carolina who shall have the supervision of the schools of the Cherokees of said State under the direction of the Commissioner of Indian Affairs,

and the following provisions, as part of an act approved March 3, 1877 (19 Stat., 291–2):

> The Secretary of the Interior may, at his discretion, use a portion of the money appropriated in the Indian appropriation act of fifteenth August, eighteen hundred and seventy-six, for the support of schools among the Eastern Band of Cherokee Indians, in aid of schools among said Cherokees residing in Tennessee and Georgia.
>
> For this amount, or so much thereof as may be necessary, to enable the Secretary of the Interior to employ counsel to defend suits now pending against the North Carolina Cherokees, one thousand dollars; said amount to be expended out of the funds in the United States Treasury belonging to said North Carolina Cherokees.

And your orator avers that other provisions of law equally confirmatory of the trust aforesaid will be hereinafter referred to.

III. And your orator avers that, after the making of the said treaty, considerable sums of money were from time to time paid to the defendant William H. Thomas, as agent of the said Indians, by your orator, under former treaties and under acts of Congress, and that so much of the said money as belonged to those members of the tribes that had concluded to remain in the State of North Carolina was, to a large extent, allowed to remain in the hands of the defendant William H. Thomas, as agent, for the purpose of being invested for the said Indians in lands in the said State; that Thomas did in fact buy a large quantity of land situated in the southwest corner of the said State, in Cherokee, Jackson,

Graham, and Swain Counties, with the money thus intrusted to him, but had the same conveyed to himself without any reference in the conveyances to his relation of agent and trustee of the said Indians.

IV. And your orator avers that there were mutual accounts between the said Indians and their agent, Thomas, who carried on a large business in furnishing them with supplies of all sorts; that while these accounts remained still open the said Thomas became embarrassed in his circumstances; and it then came to the knowledge of the said Indians that the lands purchased for them by Thomas with their money had become, owing to the fact that the same were conveyed to Thomas, subject to the lien of three judgments held by the defendant, William Johnston, and amounting in the aggregate to a large sum of money, as will particularly appear hereafter; that Johnston sued out executions on the said judgments and levied the same and sold the said lands, he himself becoming the purchaser thereof, at prices much below their value, and receiving title from the sheriff or sheriffs; that afterwards the said Johnston, recognizing the equities of the said Indians, agreed with them that they might redeem the lands bought by him under the said judgments, and that the Indians made payments to him under this agreement amounting to a large sum of money.

V. And your orator avers that in this state of things Congress passed the act of the 15th July, 1870 (16 Stat., 362), empowering the said Indians, by the name and style of "The Eastern Band of the Cherokee Indians," to sue their present or any former agent in the district or circuit courts of the United States; that pursuant to said act the said Indians filed a bill in equity in the circuit court of the United States for the western district of North Carolina against William H. Thomas, William Johnston, and James W. Terrell; that at

the May term, 1874, of the said circuit court the said cause and a suit at law, also brought under the said act of 1870 by the United States and the said Eastern Band of the Cherokee Indians against James W. Terrell, a former agent of the United States for the said Indians, and W. H. Thomas, William Johnston, A. J. Murray, and J. B. Allison, his sureties, together with all unsettled matters connected with said suits, "as well as any and all unsettled matters between any of said parties and any of the Cherokee Indians residing in North Carolina, growing out of any of the dealings between said Indians, or any of them, and William H. Thomas, acting as their agent or otherwise, especially in relation to their alleged indebtedness to him for services, supplies, etc., and his alleged indebtedness to them on account of the management, disposal, or investment of their funds in his hands as agent or otherwise; and touching all contracts in relation to lands, and for services rendered, or otherwise, for or with them, or otherwise; also all unsettled matters growing out of the agency of James W. Terrell as a disbursing agent of the Government, as well as all matters of controversy between the said Indians, or any of them, and William Johnson, defendant, touching the right to land purchased by him at execution sale as the property of William H. Thomas, as well as the contracts of sale between him and the said Indians;" that in October, 1874, the said arbitrators filed their award, dated 23d October, 1874, and that the same was made an order of court at the next ensuing November term of the said court.

were referred to the arbitrament and decision of Rufus Berringer, John H. Dillard and Thomas Ruffin;

VI. And your orator avers that the said arbitrators found that upon a statement of the accounts between the said Indians and their agent, Thomas, the former were indebted to the latter in the sum of $18,250, but that this amount was subject to a credit of $8,486, being the amount, with interest, that had been paid to the judgment creditor, Johnston, by the Indians towards redeeming their lands, and that the balance of $9,764 was subject to a further credit of $2,697.89, being

the amount of what had been irregularly turned over by Terrell, as a disbursing agent of the Government, to Thomas, which amount, however, it became the duty of Thomas to apply to the balance of purchase-money due him as money belonging to the Indians, which he was authorized to receive as their attorney in fact, thus leaving $7,066.11 as the actual debt of the Indians to Thomas at the date of the award; and the arbitrators awarded that upon the payment of this sum of $7,066.11 by the Indians to the judgment creditor, Johnston, the Indians should have a perfect equity to have and demand of him, the said Johnston, a conveyance of the legal title to all the lands embraced within Qualla Boundary, a tract of land containing about 50,000 acres, the title to be made to them or to some trustee for them, and that until such conveyance should be made, the said Johnston, so soon as the said balance should be paid him, should himself stand seized as a naked trustee of said lands to the use of the said Indians; that the said arbitrators did, furthermore, find that the said agent, Thomas, had sold and conveyed certain tracts of land lying within the said Qualla Boundary to certain individuals of the said Eastern Band of Cherokees, and had contracted to sell certain tracts of land lying within said Qualla Boundary to certain other individuals of the said band, and that the said arbitrators did award that upon the payment of the said sum of $7,066.11 the said individual Indians should possess these several tracts as their separate property "with the quality of being inheritable, but without the power of alienation, except from one Indian to another, and then only with the assent of the council;" and the said arbitrators did further find that the said Thomas had sold and conveyed certain tracts of land not embraced by the Qualla Boundary tract to several individual Indians, and had contracted to sell certain other tracts also, outside said Qualla Boundary, to other individual Indians, and did further find that of the individuals last mentioned Ka-yu-kah (or Ground Squirrel) and James Taylor were entitled to deeds, and awarded

that Thomas and Johnston should make the proper deeds to them and to the others when they should be entitled to receive conveyances under the several contracts between them and Thomas, all which will more fully and at large appear by reference to a copy of the award herewith filed and exhibited and marked Exhibit A, which your orator prays may be held and taken as part and parcel of this bill of complaint to the same extent as if set forth at length herein.

VII. And your orator avers that the said Indians, having paid the said William Johnston the said sum of $7,066.11, he, the said Johnston, and his wife, Lucinda M. Johnston, by an indenture dated the 9th October, 1876, conveyed the said Qualla Boundary tract to the said Indians by the name and style of "The Eastern Band of North Carolina Cherokee Indians," their heirs and successors, forever, "but without the power of alienation, except by and with the assent of their council and the approval of the President of the United States," a copy of which said deed is herewith filed and exhibited, marked Exhibit C.

VIII. And your orator avers that, after crediting the said judgments by the sums paid, and to be paid, by the Indians in discharge of the balance due by them to their agent, Thomas, there remained due on the said judgments the sum of $18,335, with interest from the 25th October, 1874, until paid; that this balance was ascertained by the said arbitrators under a separate reference to them by William H. Thomas and William Johnston, who could not agree as to what was due on the judgments, copies of which said reference and award are herewith filed, and marked Exhibit B; that, in view of the fact that Johnston held sheriffs' deeds for various tracts of land purchased by him under executions on said judgments at much less than their fair value, and under circumstances well calculated to depreciate them and deter persons from bidding

therefor, which tracts are not embraced in said award of 23d October, 1874, it was awarded under said separate reference that Johnston should hold the title to said lands as security only for the balance due on said judgments; and that James W. Terrell and Thomas D. Johnston should sell the said lands on the terms of one-fourth cash and the residue in one and two years, in equal instalments, with interest from the day of sale, and out of the proceeds pay the said balance of $18,335.65, with interest and costs.

IX. And your orator avers that by the Indian appropriation act of 3d March, 1875 (18 Stat., 447), it was enacted as follows:

> That the fund set apart in the Treasury of the United States by virtue of the fourth and fifth sections of the act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes," approved July twenty-ninth, eighteen hundred and forty-eight, shall be applied, under the direction of the Secretary of the Interior, for the use and benefit of the Eastern Band of the Cherokee Indians, to perfect the titles to their lands recently awarded to them by a decree of the circuit court of the United States for the western district of North Carolina; to the payment of such costs, charges, expenses, and liabilities attending their recent litigations in the said court as the Secretary of the Interior may determine to be properly chargeable to them; to purchase and extinguish the titles of any white person or persons within the general boundaries allotted to them by the said decree of said court; and for the education, improvement, and civilization of the said Indians.

That in supposed pursuance of the said act the said judgments were purchased with the fund therein mentioned for the sum and amount of $19,245.53, being the said balance of $18,335.65, with interest and taxed costs, and the said judgments were assigned to the Commissioner of Indian Affairs, in trust for the Eastern Band of Cherokee Indians in North Caro-

lina; and your orator avers that the effect of this purchase and assignment was to place the whole band in the same relation to the said lands as William Johnston, the judgment creditor, had held, and to entitle them to enforce satisfaction of the judgments out of the said lands.

X. And your orator avers that Congress, afterwards, by an act entitled "An act to authorize the Commissioner of Indian Affairs to receive lands in payment of judgments to Eastern Band of Cherokee Indians," approved August 14, 1876 (19 Stat., 139), declared as follows:

> That the Commissioner of Indian Affairs be, and he is hereby, authorized and empowered to collect and receive, in payment of the amount due on certain judgments in favor of William Johnston, and against William H. Thomas, now held by him in trust for the Eastern Band of Cherokee Indians of North Carolina, the lands mentioned and described in the award of Rufus Barringer, John H. Dillard, and Thomas Ruffin, as a board of arbitrators, under date of October twenty-third, eighteen hundred and seventy-four, upon which such judgments were a lien; such lands to be taken at their cash value, to be determined by an appraisal to be approved by the Secretary of the Interior, and conveyed to the Eastern Band of Cherokee Indians in fee simple: *Provided*, That if the lands above mentioned shall not be sufficient in value to pay off and discharge said judgment, the Commissioner is authorized to receive such other lands as the said Eastern Band of Indians may select, by and with the assent of the said Commissioner, to an amount sufficient to discharge the said judgment.

XI. And your orator avers that the effect of the said award of 23d October, 1874 (Exhibit A), and the payment to the judgment creditor, William Johnston, of the said sum of $7,066.11, and the said conveyance by him and his wife, of the 9th October, 1876, to the Eastern Band of the North Carolina Cherokee Indians, wherein receipt for the said sum is acknowledged, was to extinguish at law the lien of the said judgments or the estate of the said Johnston as a purchaser under said judgments as to the Qualla Boundary tract, and to extinguish in equity said

lien or estate as to all the other tracts of land mentioned in the said award; that the payment of the said sum was intended to operate and did operate as a complete satisfaction to the said Thomas of all liability of the said Indians, collectively, for lands purchased for them by the said Thomas, but that such payment did not extinguish the liability of the individual purchasers of lands from Thomas, mentioned in the award, who had not fully paid for the lands so purchased.

XII. And your orator avers that in applying the said act of 14th August, 1876, there was an entire failure to use even so much as ordinary precaution to protect the interests of the said Indians, and that, as a consequence, great discontent and dissatisfaction have been the results of proceedings which were set on foot for the purpose of securing confidence and repose among the said Indians; that it was certainly the duty of those charged with receiving land in satisfaction of said judgments not to credit the same by the value of any lands held by individual Indians and not fully paid for until each Indian had been applied to to know what was due on his land and whether he was ready to pay it, and until those representing the interests of Thomas had surrendered the evidence of indebtment of such Indian; whereas your orator avers that such evidences of indebtment have never been delivered up and are still held by those in charge of the interests of said Thomas, who is now *non compos mentis*, and that no statement has ever been made to show the actual amount due from each Indian to the said Thomas; and your orator avers that it is not surprising to find, as the result of so negligent a course of conduct, that some Indians are constantly demanding conveyances from your orator, insisting that they owed nothing to said Thomas at the time their lands were applied in satisfaction of the said judgments; and your orator avers that in taking the said lands of Indians who had purchased from said Thomas in satisfaction of said judgments the lands so taken were applied to the judgments without

regard to the amounts that had been paid Thomas by the Indians on the lands purchased, thus, to that extent, giving Thomas double satisfaction in each case for one and the same debt, and your orator avers that it has been pretended that what was owing Thomas by the Indians was considerably in excess of the value of the lands purchased, but your orator conceives that this is not probable, seeing that said Thomas or those charged with his interests would hardly have made a settlement so detrimental to those interests, and certainly it is not to be accepted as fact until said Thomas or those representing him have been compelled to produce the said evidences of debt and other data held by them, so that an account may be stated showing precisely what was due from each Indian; and your orator avers that although the said act of 1876 requires an appraisal of the lands received in discharge of such judgments to be approved by the Secretary of the Interior, a large part of the lands so received were not appraised, and it is charged, and believed to be true as charged, that such lands were taken at a valuation much beyond their cash value, that in some instances there was a total failure of title, and that in selecting said lands those representing the said Indians were forced to select without any opportunity to ascertain the character of the lands from which the selection was to be made; and your orator avers that so much dissatisfaction and discontent have grown out of the proceedings under the said act of 1876, and all parties directly concerned in applying said act have been so regardless of the ordinary rules of business and so reckless of the interests of the Indians that it is not strange that those charged with said interests have never allowed the said judgments to be entered satisfied, but have kept the same operative and alive, and that suspicions hang around the said pretended settlement which, it is believed, nothing short of a thorough investigation by a competent master, acting under an order of reference by this honorable court, can dispel.

XIII. And your orator avers that the pretended settlement under the act of 1876 was carried into effect by a deed of conveyance, dated 14th August, 1880, from William Johnston, Lucinda M. Johnston, W. L. Hilliard, guardian of W. H. Thomas, a lunatic, duly appointed under the laws of North Carolina, and James W. Terrell and Thomas D. Johnston, describing themselves as commissioners and as attorneys of W. H. Thomas, to the Commissioner of Indian Affairs and his successors in office as trustee for the Eastern Band of Cherokee Indians of North Carolina, a copy of which said deed is herewith exhibited, marked Exhibit D; and your orator avers that said deed was in substitution for a previous deed of conveyance, dated 9th October, 1876, from the said Johnston and wife, and the said Terrell and Thomas D. Johnston, to the Commissioner of Indian Affairs and his successors in office as trustee for the said Eastern Band of Cherokee Indians of North Carolina, a copy of which said deed is herewith filed and exhibited, marked Exhibit E; and your orator avers that the incumbent of the position of Commissioner of Indian Affairs at the time said deeds were made was the Hon. John Q. Smith, of the State of Ohio, but that the said Smith no longer fills the said position.

XIV. And your orator avers that, clothed as your orator is with a trust as to the *per capita* money set apart, as aforesaid, by the act of 29th July, 1848 (*supra*), for the benefit of the said Eastern Band of Cherokee Indians under the twelfth article of the treaty of New Echota of 29th December, 1835, a part of which said fund was used in purchasing the said judgments against said Thomas, it is a solemn treaty obligation of your orator to protect the said fund and to guaranty to the said Indians an honest payment thereof, whether in money or the equivalent of money in land, if the Indians so elect; that it is the duty of your orator as such trustee to use all legal means to compel the judgment debtor, Thomas, to give a fair

equivalent for the balance due on the said judgments when purchased with the said fund, and that it would be a reproach to your orator to allow to stand a settlement made in the unjust, inequitable, careless, and suspicious way in which the so-called settlement under the act of 1876 was made; and that the lapse of time is not to operate against the said Indians nor against your orator in the exercise of sovereign rights under a treaty.

XV. And your orator avers that through criminal carelessness, not to say design, nearly all the title papers of the said Thomas, showing his titles to the lands sold the Indians, and which were produced before the arbitrators and directed by them to be recorded, were lost or destroyed without being put on record, to the great injury and inconvenience of the Indians, whose titles to the lands purchased have been adjudged valid by the said arbitrators, yet so it is that such validity can not be shown in an action at law in consequence of the loss or destruction of said title papers; and your orator avers that, in addition to the loss or destruction of said papers, the land records in the counties in which the said lands lie are in such a condition of confusion and disorder that it has been found impossible by an intelligent agent of your orator to make any use of them whatever; and your orator avers that the deed of conveyance of the Qualla Boundary tract, being to the Eastern Band of North Carolina Cherokee Indians, is perhaps inoperative and void for the want of a proper description of the grantees, and that the other deed to the Commissioner of Indian Affairs is deemed by some also invalid on a like ground; and your orator avers that this unfortunate condition of the titles of the said lands has encouraged a great number of lawless and abandoned people to enter thereon and establish themselves there, causing terror to the said Indians, and committing waste and destruction and otherwise doing irreparable damage to the said lands.

XVI. And your orator avers that it has been for a long time generally known that the titles of the said lands have been in the condition aforementioned, and that the opinion prevails that the said lands may be invaded and occupied and the Indian settlers driven therefrom with entire impunity, and your orator avers that the recent decision of the supreme court of North Carolina, that the said Indians can not plead or be impleaded in the courts of that State, makes their condition entirely helpless so far as the judicial authority of the State is concerned, and compels resort to the judicial authority of the United States for the justice and protection denied by the courts of the State.

XVII. And your orator avers that the said award of the 23d October, 1874, has not been duly carried out in other particulars than the failure of William H. Thomas and William Johnston to convey to the said Indians by a sufficient deed the legal title of the said Qualla boundary tract, and that it intimately concerns the repose and happiness of the said Indians that there should be a judicial scrutiny into the action which has been taken under the said award in every part and particular thereof.

XVIII. And your orator avers that, according to the last official report to your orator touching the said lands, the persons whose names are next hereinafter mentioned had entered upon the said Qualla Boundary tract, and respectively dispossessed and disseised the said Indians of large portions of the said tract; that is to say: Penn Kline, alias W. P. Hyde, David Johnson, George W. Gibson, Christianberry Howell, Tabitha Tompkins, Thomas Mills, J. H. Mosely, A. H. Hayes, H. A. Keener, E. S. Keener, Berry Cooper, D. W. (or Bose) Love, J. B. Keener, John R. Kimsey, H. S. Baker, Bartlett Dills, W. A. Enloe, Humphrey Childers, I. M. Hensley, M. C. Hensley, T. W. Keener, Eliza Keener, Albert S. Keener, H. P.

Childers, Arminda Wilson, Nimrod Childers, Landon Tompkins, C. C. Martin, W. C. Martin, A. Keener, John M. Enloe, N. R. Kinsey, T. C. Childers, William H. Thomas, jr., Jackson Williams, John Enloe, Susannah E. Hyde, Cling Childers, Mary E. Hyde, W. H. Enloe, Ute Sherrell, William Cooper, Carroll Martin, George Sherrell, Uriah Cooper, Robert Burchfield, Joseph Keener, John Kimsey, Smith Baker, Blue Baker, Baker the elder, —— Putman, George Keener, Will Laney, Will Davis, —— McNesia, —— Winchester, Coleman Scea, James Edwards, Andrew Burchfield, Harrison Coleman, Richard Dills, Ramsey Gibson, Budd Johnson, Eliza Tomkins, Bill Moseley, Budd Parker.

XIX. And your orator avers that the names of the other trespassers and disseisors who have entered on the lands of said Indians lying outside Qualla boundary and dispossessed and disseised the rightful Indian owners thereof are as follows: Andrew Shields, I. V. Cooper, Reuben Carver, D. K. Blanton, A. B. Hyatt, Tyra Higdon, John Grant, James G. Brooks, Martin Parker, Isaac Lovinggood, Benjamin Killian, James Williamson, John Graves, John Dockery, Wm. Cline, N. O. Rabb, Gus Bradley, Dewitt Ghomley.

And your orator avers that there may be other trespassers and disseisors on the said lands; in which case your orator craves leave to make them parties to this bill of complaint so soon as they shall become known to your orator.

XX. And your orator avers that it is impossible for the said Indians, or for your orator, suing in their behalf, to maintain an action at law for the ouster and dispossession of the said trespassers and disseisors, on account of the said condition of the titles of the said lands, and that, as the guardian and protector of the said Indians touching all their rights and interests whatsoever, with all necessary power and authority

to make effective the duties growing out of the said relations of guardian and protector, and as trustee of the *per capita* money funded for the benefit of the said Indians by virtue of the said act of the 29th July, 1848, under the twelfth article of the treaty of New Echota, your orator has no way of obtaining the redress called for by the wrongs and oppressions aforesaid, save by the aid and intervention of a court of equity, where such matters are properly cognizable.

Wherefore and to the end that the said lands may be conveyed and assured to the said Indians by proper deeds and conveyances, and that it may be referred to a master learned in the law, to inquire and report particularly in what manner the said award of the 23d October, 1874, has been carried out, and what defaults, if any, exist in that behalf, and to inquire and report particularly as to the transaction by which it is claimed the said judgments were satisfied and discharged by the conveyance of lands, and as to whether the said transaction was conducted in accordance with the principles of law and equity and the legislation of Congress touching the same; and to inquire and report touching the individuals holding parts of the said lands adversely to the said Indians, and whether such individuals had any title or claim of title to the lands so held by them, and that the said Penn Kline, alias W. P. Hyde, David Johnson, Geo. W. Gibson, Christianberry Howell, Tabitha Tompkins, Thomas Mills, J. H. Mosely, A. H. Hayes, H. A. Keener, E. S. Keener, Berry Cooper, D. W. (or Bose) Love, J. B. Keener, John R. Kimsey, H. S. Baker, Bartlett Dills, W. A. Enloe, Humphrey Childers, I. M. Hensley, M. C. Hensley, T. W. Keener, Eliza Keener, Albert S. Keener, H. P. Childers, Arminda Wilson, Nimrod Childers, Landon Tompkins, C. C. Martin, W. C. Martin, A. Keener, John M. Enloe, N. R. Kimsey, T. C. Childers, Wm. H. Thomas, jr., Jackson Williams, John Enloe, Susannah E. Hyde, Cling Childers, Mary E. Hyde,

W. H. Enloe, Ute Sherrell, Wm. Cooper, Carroll Martin, George Sherrell, Uriah Cooper, Robert Burchfield, Joseph Keener, John Kimsey, Smith Baker, Blue Baker, Baker the elder, ——— Putnam, George Keener, Will Laney, Will Davis, ——— McNesia, ——— Winchester, Coleman Scea, James Edwards, Andrew Burchfield, Harrison Coleman, Richard Dills, Ramsey Gibson, Budd Johnson, Eliza Tomkins, Bill Moseley, Budd Parker, Andrew Shields, I. V. Cooper, Reuben Carver, D. K. Blanton, A. B. Hyatt, Tyra Higdon, John Grant, James G. Brooks, Martin Parker, Isaac Lovinggood, Benjamin Killian, James Williamson, John Graves, John Dockery, Wm. Kline, N. O. Rabb, Gus Bradley, Dewitt Ghomley, may answer and say by what warrant or title they entered upon and now occupy the said lands, respectively, and that the said W. L. Hilliard, guardian of William H. Thomas, a lunatic, and the said William Johnston and James W. Terrell and Thomas D. Johnston and the said John Q. Smith may answer the aforegoing as fully and particularly as though thereto interrogated, and that your orator may have such other or further relief as may be meet and apposite.

May it please your Honors to grant your orator the writ of subpœna, and your orator shall ever pray, etc.

A. H. Garland,
Attorney-General.
Wm. A. Maury,
Assistant Attorney-General.

EXHIBIT A.

In the circuit court of the United States, western district of North Carolina. In Asheville.

THE EASTERN BAND OF THE CHEROKEE INDIANS *against* WILLIAM H. THOMAS, WILLIAM JOHNSTON, and James W. Terrell.	In equity.
THE EASTERN BAND OF THE CHEROKEE INDIANS *against* JAMES W. TERRELL, WILLIAM H. THOMAS, William Johnston, A. J. Murray, and J. B. Allison.	Suit at law on the bond of J. W. Terrell as the disbursing agent of plaintiffs.

Whereas at the May term, 1874, of said circuit court of the United States held at Asheville, before his honor R. P. Dick, judge, the parties to the above two causes entered into an agreement in writing to submit all matters of dispute and controversy between them, as specified and set forth in their said written agreement, to Rufus Barringer, John H. Dillard, and Thomas Ruffin, their award to be final and a rule of court, and said submission to go into effect upon the approval thereof by the said Hon. R. P. Dick, judge of said court, the Secretary of the Interior, the Commissioner of Indian Affairs, and the Department of Justice at Washington City; and whereas their said submission was approved by the said judge of the court and the said several officers at Washington City, as appears from their several indorsements on the said written submission, a copy of which is hereto attached, and to be referred to as a part of this award; and whereas, by virtue of said submission, the reference to the said arbitrators was to be deemed operative and fully authorized as soon as approved as aforesaid:

Now, therefore, we, the undersigned, Rufus Barringer, John H. Dillard, and Thomas Ruffin, having taken upon ourselves the burden of the reference aforesaid, and having heard and duly considered and weighed the several allegations of the said parties, the pleadings in the said two suits, and all the proofs, vouchers, and documents which have been given in evidence before us, and having heard the arguments and suggestions of counsel, do hereby make and publish this our award, in writing, of and concerning all and every the several matters as above referred to us, in the manner following; that is to say:

1. That William H. Thomas became and was the agent of the Eastern Band of the Cherokee Indians living in North Carolina, who are the

plaintiffs in the above two causes, after the removal of their brethren west in the year 1838, and as such undertook to purchase, and did purchase, for them land, the amount, location, and boundary whereof will hereinafter be fully described, to be paid for with money or moneys coming to them from the United States under treaties with and the laws of the said United States.

2. That the said William H. Thomas, in pursuance of his said agency and trust reposed in him, did from time to time, and from various persons, purchase lands for the plaintiffs as a tribe and community, and settlement thereon, and carved up the same into towns, which said purchases are included in and make a large tract, situated on Soco Creek and Ocona Lufta River and their tributaries, known as the Qualla Boundary, and bounded as follows, to wit: Beginning at a stump near the spring on Jackson County line at the head of Jonathan's Creek, where the Soco road crosses the mountain; thence in a northerly direction with the said county-line to the ridge which divides the waters of the Ravin's Fork from Bradley or west fork of Ocona Lufta River; thence with the watershed of that ridge to the line of Widow Hugh's; thence eastwardly with her line, crossing Ravin's Fork; thence down, and with her lines and the lines of Wesley M. Enloe, to the Ocona Lufta River; thence down with the meanders of said river to the southern boundary of Samuel Monteith; thence across said river and with said Monteith's line to his southwest corner; thence with the lines of an entry made by W. H. Thomas and other lines of said Thomas, keeping on his outside lines to the dividing-ridge between the waters of Adam's Creek and Newton's Mill Creek, so running said line as to include all Indians living on the headwaters of said Adam's Creek; thence in a southerly direction, keeping on the watershed of said ridge to the line of Sim Sherrell; thence with his line to Ocona Lufta River, the last two lines being run so as to include all the Indian settlements on the east side of Newton's Mill Creek; thence with and across the said Ocona Lufta River to the upper boundary of J. M. Bird; thence with this line to the corner of the first tract of what is known as the State surveys above the said Bird; thence up said river with the lines of said State surveys so as to include one tier of old surveyed tracts bordering on said river, and striking said river below Ute Sherrell's, excluding the tract now occupied by J. A. Gibbs, and also some entries known as Thomas's entries; thence up and with the meanders of said river to a tract of land occupied by an Indian named Ah-ma-cha-ma; thence with the line of that tract, and including the same, to the old line of Scroop Enloe, or near it, but so as to exclude the tract now occupied by Mason Reckley; thence with the line of the tract so occupied by Reckley, cross-

ing the Soco Creek below his house, to the old line of said Scroop Enloe; thence with Enloe's line to the line of Thomas's mill-tract; thence with the line of said mill-tract and with the line of an entry known as Thomas's five hundred-acre entry, and leaving the same outside, to the line of J. B. Sherrell; thence with his line to the line of a tract conveyed to Flying Squirrel by J. W. King; thence with the line of that tract, and so run as to include it, to the line of the Thompson Carter tract; thence with that tract, and so run as to include it, to the top of the ridge which makes the watershed between Soco Creek and Shoal Creek; thence with the said watershed to the south corner of the Cathcart survey; thence with the line of that survey to the beginning, at the head of Jonathan's Creek.

3. That within the said Qualla Boundary so as aforesaid purchased for the tribe as a community, the said Thomas, at divers times, sold and conveyed by deed several tracts of land to the following individual Indians, to wit: To Enola (or Black Fox), 40 acres; to Oue-tah, 33 acres; to Standing Wolf and children, 286 acres; to Catalska, three tracts, making together 110 acres; to Charlie Hornbuckle's heirs, 100 acres; to Sa-lo-lu-netah (or Young Squirrel), 53 acres; to Nellie Johnson, 200 acres; and to Jinney Reed, 200 acres, and received from them, respectively, the purchase-money; the locations and boundaries of which said tracts fully appear from the accompanying deeds to the said parties from said Thomas; and also that the said Thomas, at divers times, contracted in writing to sell several other tracts within said Qualla Boundary to the following individual Indians, to wit: To Chulo-gu lah (or Cloud), 50 acres; Wilson Ooeummuh, two tracts, one of 20 acres and the other known as the Caynatago tract; the heirs of Jeff. Hornbuckle, 200 acres; to Sawnooka, the lands surveyed by Dills, being a part of the Holland's old field; to Ben Quain, 50 acres, where he lives; to the heirs of Long Blanket, the place where they live; to the heirs of Little Witch, the place where they live; to Wilson Wolf, the mill-tract purchased of Abraham Mingus; to Ta-a-kah, the tract known as the Thompson place; to Wilson Reed, 125 acres, surveyed to him by Terrell; to Standing Water, the place where he now lives; to Ta-ya-hah, a part of the Holland's old field; to Tah-gul-se-nah, the place now occupied by him; and received from them, respectively, in whole or in part, the purchase-money, the location of which said tracts, so contracted to be sold, will appear by the several accompanying titles, bonds, and other memoranda from said Thomas to said Indians. We do, therefore, award that the general boundary, known as the Qualla Boundary, and above described, belongs to, and shall be held by, the Eastern Band of Cherokee Indians living in the State of North Caro-

lina, as a tribe or community, and whether living at this time at Qualla or elsewhere in the State; and that the individual Indians above named as holding under said Thomas, either by deed or contract, shall hold and possess their several tracts as their separate property, with the quality of being inheritable, but without the power of alienation except from one Indian to another, and then only with the assent of their council. All the above, however, to be subject to the payment of a sum of money to William Johnston, as hereinafter provided.

4. We find that the wife and children of an Indian named Little John have a deed to a tract of land situated on the south side of Tuckaseigee River, and outside of said Qualla Boundary, for 173 acres, on which they now live, and we award that the same is a good title as against all parties and privies to these suits. We further find that the said wife and children of the said Little John have a title-bond from said Wm. H. Thomas for 100 acres of land, to be curved off from a tract of land adjoining the lands last spoken of, so as to embrace 100 acres of land on both sides of the Skeekee's Branch, and that they have paid for the same in full. Also that the heirs of Will gees-ka have a title-bond from Wm. H. Thomas for the tract of land on which they live, adjoining the above lands of the Little John's and on the south side of said Tuckaseigee River, for which they have paid in full. We do, therefore, award that the said defendants, Thomas and Johnson, do lay off and convey to the said wife and children of the said Little John the said 100 acres to embrace both sides of said Skeekee's Branch; and also that they convey unto the said heirs of Will-gees ka the land on which they live.

5. We find that at one time it was contemplated between said Thomas and the Indians residing in the region described in the pleadings as Cheoih to make a similar purchase of a general bounday of land in that section of the State, and that there was a written agreement to that effect between them; but afterward the Indians declined to furnish, and did not furnish, the funds necessary to make such purchase; and we therefore award that the said agreement between them and Thomas to make such purchase was abandoned; and that in lieu thereof the following individual Indians made separate purchases from Thomas and others, and have deeds or other sufficient title therefor, to wit:

Sakah, 100 acres in district No. 9, section 589.

Corn-silk, 100 acres in district No. 9, section 347.

Corn-silk, 100 acres in district No. 10, section 374.

Chick-a-lilla, 100 acres in district No. 9, section 363.

Chick-a-lilla, 48 acres in district No. 9, adjoining section 363.

Walla-na-kah, 100 acres in district No. 10, section 552.

Ches-que-ne-tah (or Young Bird), son of Ty-al-ta, 100 acres in district No. 9, section 364.

Tom Big-meat, 100 acres in district No. 9, section 359.

Tom Big-meat, 90½ acres in district No. 9, section 360.

Con-na-see-nah, 100 acres in district No. 10, section 386.

And these having all paid the purchase-money in full, we do award that they hold and have title in fee as against said Thomas and Johnston, and all other parties and privies to these suits.

We find further that the following Indians and persons of Indian blood have written contracts for title to lands in Cheoih from Wm. H. Thomas, and are entitled to specific execution thereof, they having paid the purchase-money in full therefor, to wit:

Ka-yu-kah (or Ground Squirrel), for 288 acres in district No. 10, section No. 23, Cherokee County.

James Taylor, district No. 7, in Cherokee County, Nos. 19, 21, and 27.

That the following have contracts in writing for the purchase of lands, and are entitled to specific performance thereof whenever they shall make full payments of the purchase-money, to wit:

Dick-a-gees-ku's heirs, for 100 acres in district No. 9, section 367.

Oo-tal-ka nah, 100 acres in district No. 9, section 373.

Chin-a-que (or John Owl), the land whereon he lived in 1855, in Cherokee County, excepting all mineral interests.

Too-way-al lah, part of No. 12, district No. 10.

Corn-silk, 100 acres in district No. 9, section 588.

Tracking Wolf, district No. 9, section 404.

Richard Henson and others, and their heirs, 210 acres in district No. 5, section 11.

Richard Henson, 157 acres in district No. 5, section 14, with a bounty-claim of 2,700 acres.

Sal-ka-nah and others, 80 acres in district No. 6.

Tes-a-tees-kah, 100 acres in district No. 9.

George Oo-yah-ste-ah, district No. 9, section 365.

Cah-nah-a-to-go and others, district No. 9, section 405.

Cohe-loskah, 120 acres in district No. 9, section 93.

Too-nah-lu-yah, Chees que-ne-tah, Te-tal-ka-nah, no districts or section given.

We do, therefore, award that Ka-yu-kah (or Ground Squirrel) and James Taylor have a perfect equitable title in fee to their said sections of land, and that W. H. Thomas and William Johnston do execute deeds to them severally therefor; and as to all the others above mentioned, we award that they have respectively an equity to have title, and that the same be made to them by the said Thomas and Johnston upon the

payment of the purchase-money still due from them; and the said Thomas, or Johnston, as the case may be, shall have a right, in default of such payment of the purchase-money, to enforce the same by sale of their lands, respectively, according to law.

6. We find that in the course of the agency and trusteeship of the defendant Thomas for the plaintiffs he received, in the way of payments by the Government, contributions from individual Indians, and from sales of lands, within the said common boundary at Qualla, to individual Indians, large sums of money; that, on the other hand, by reason of the purchase for them of their lands, by his services rendered them in securing their claims, and by his furnishing them, through a long series of years, with clothing, food, farming tools, and other necessary supplies, they became largely indebted to him; that after adjusting all claims of every kind and description between them, except as hereinafter mentioned, we find that the said Indians owe the said Thomas a balance toward the purchase-money of the said Qualla Boundary of $18,250; that after the purchase of the said lands by the defendant Johnston, under his executions against the defendant Thomas, the plaintiffs, in pursuance of a contract made with the said Johnston, for the redemption of said lands, on the 29th day of September, 1869, paid to him, the said Johnston, the sum of $6,500 which said payment we award that the said Johnston shall apply as a credit on his said judgments against Thomas as money paid by the plaintiffs toward the balance above stated as due from them to Thomas; that the said sum of $6,500, with interest to this day, amounts to the sum of $8,486, thus reducing said balance due Thomas to the sum of $9,764.

7. We find, in the suit at law on the bond of Terrell and his sureties, that the said defendant Terrell paid over to the said defendant Thomas, his bondsman, the sum of $2,478, which is sought to be recovered in said suit on his bond, relying on him to pay it out to those entitled; and we further find that though such payment to Thomas was not in strict compliance with the conditions of his bond, yet this same being paid to Thomas, to whom the plaintiffs were owing a balance of purchase-money for their lands, and who then had a power of attorney from the plaintiffs authorizing him to receive the same and apply it toward the payment of said purchase-money for their lands, we do therefore award that the said sum, with its interest, this day making $2,697.89, be deducted from the above balance of $9,764, thus reducing it to the sum of $7,066.11; and upon the payment of this last-mentioned sum, to wit, the sum of $7,066.11, with its interest from this date at the rate of six per cent. per annum to the said defendant John-

ston, and by him to be entered as a credit on his said judgments against Thomas, we do further award that the said plaintiffs shall have a perfect equity to demand and have of him, the said Johnston, a conveyance of the legal title to all the lands embraced within their said Qualla Boundary, the same to be made to them, or to some trustee for them; and until such conveyance be made, the said Johnston, so soon as said balance is paid him, shall, himself, stand seized as a naked trustee of said lands to the use of said plaintiffs; and the said sum of $2,697.89, so sued for as aforesaid, in the action at law, being applied as above set forth on the said balance due for the purchase-money, we do therefore further award that the plaintiffs do recover in the said suit at law the penalty of said Terrell's bond, to be discharged on the payment of a penny and the costs of that action, to be taxed by the clerk.

8. Wishing to secure repose of title to the parties and to end litigation between them, we have taken into consideration all accounts, claims, and demands between the said plaintiffs as a tribe, and each and every member of the tribe, wherever residing in the State of North Carolina, and W. H. Thomas and William Johnston, and either of them, and we do hereby award that all such accounts, claims, and demands are to be treated as concluded and adjusted between them, and in no way collectable and enforceable, save and except as is hereinbefore provided in relation to contracts for sales of land, and save and except the matters of controversy between the members of the Raper family in regard to their reservation-money. This latter being already the subject of litigation in our State courts, we have not considered, but leave the same to be settled in said State courts.

9. We find that William H. Thomas purchased the Cathcart survey of 33,000 acres, and other adjoining tracts and entries, out of part of which the said Qualla Boundary is composed, and that he extinguished the titles of all whites inside of said boundary, with the single exception of that one of Ute Sherrell, and that but few of his title-papers have been registered, and but few of his deeds to, and his written contracts of sale with, said Indians, whether at Qualla or elsewhere, have been registered. We do therefore award that all of said deeds to Thomas, under which the said Indians claim, and all his deeds and written contracts of sale to them or any of them, shall be registered in the proper offices of the State; and to the end that this may be properly attended to by some competent person, we do award that all such deeds and contracts be delivered to W. W. Rollins, one of plaintiffs' agents, for registration.

10. In considering the compensation due to the defendant Thomas, as agent of the plaintiffs, we have estimated his fees and commissions

only on the moneys heretofore actually paid to the Indians. On these amounts we award that said Thomas shall claim no further compensation, either directly from the Indians or indirectly through the Government. But we further find that by a special contract of November 25, 1860, the said Thomas is entitled to compensation of ten per cent. on all moneys said Indians may receive from lands sold for their benefit west of the Mississippi, mainly secured through his efforts, and which contract it is not intended to impair. We therefore award that the said Thomas be allowed said rate of ten per cent. on all moneys said Indians may hereafter receive from said western land-fund, to be paid when the same is actually realized by the said Indians, and not otherwise.

11. The costs of the suit at law having been hereinbefore disposed of, we award that all the other costs be taxed in the equity case, and be paid one-half by the plaintiffs and the other half by the defendants, W. H. Thomas and William Johnston. We leave the allowance to the arbitrators, and the manner of its payment to be fixed and provided for by the judge.

All of which is respectfully submitted, under our hands and seals, this 23d day of October, 1874.

(Signed) RUFUS BARRINGER. [SEAL.]
JOHN H. DILLARD. [SEAL.]
T. RUFFIN. [SEAL.]

EXHIBIT B.

Whereas in the course of investigation of the matters in controversy between the Eastern Band of Cherokees against Wm. H. Thomas and Wm. Johnston, referred to Rufus Barringer, Thomas Ruffin, and John H. Dillard, under an order of the circuit court of the United States for the western district of North Carolina, it was agreed by and between the said Wm. H. Thomas and Wm. Johnston to refer certain matters of dispute between them to the final arbitrament and award of the same arbitrators; and whereas the said Thomas and Johnston executed a written submission specifying the points of difference between them, which said submission is hereunto annexed and to be referred to as connected with this award. Now, therefore, we, the undersigned arbitrators, having undertaken the burden of said reference, and having heard and weighed the allegations of the parties and all the evidence adduced, as well as that of the parties themselves as the records and documentary proofs, do determine and award of and

concerning the matters referred to us in manner and form following, that is to say:

We award that there is due to Wm. Johnston from Wm. H. Thomas three judgments, as follows:

Judgment in Buncombe supe court, $13,198.40, and int. from 15th Oct. 1858, on $11,215.48 to 14th Sept., 1874, 15 years 11 months	$23,292.25
Judgment in Buncombe superior court for $7,616.66, with interest from 10th June, 1867	9,791.66
Balance of R. B. Johnston's judg't, $417.31 and interest	803.20
	33,887.11

and we find that said aggregate of the three judgments are to be credited with $6,500, with interest thereon since it was paid to Wm. Johnston, making $8,486, and also by the sum of $7,066.11, awarded as due from the Eastern Band of Cherokees and directed to be paid to him with interest; and we find that said sums being credited there will remain a balance due on said judgments in favor of Wm. Johnston against Wm. H. Thomas, eighteen thousand three hundred and thirty-five dollars and sixty-five cents ($18,335.65), and we do award that the said sum of $18,335.65 is the true amount of the indebtedness of Wm. H. Thomas to Wm. Johnston, which he is entitled to collect with interest until paid, together with the court costs taxed in the said three judgments.

(2) We award that Wm. H. Thomas delivers back to Wm. Johnston the road certificate for $620, and that Wm. Johnston surrender to Wm. H. Thomas the four bonds for $1,250 each, he holds on him, and thereupon that the said Wm. H. Thomas reconvey to said Johnston the mineral lands which constituted the consideration of said bonds.

(3) As to the $18,335.65 awarded above as being the balance of indebtedness from Wm. H. Thomas to Wm. Johnston, we find that said William Johnston holds sheriffs' deeds of Jackson and other counties for various tracts of lands sold as the property of said Thomas, and not embraced in the lands held by him in trust for the Indians, under executions issued on the three judgments hereinbefore described, and we find that the said lands were bought by the said Johnston at greatly less than their fair value by reason of clouds on the title and forbiddals at the sales, and therefore we do award that the several sheriffs' deeds shall be held as a security merely for the balance aforesaid as due on said judgments and the costs taxed or taxable in each, and we do award that James M. Terrell and Thomas D. Johnston shall make sales of the lands mentioned in the said sheriffs' deeds, other than those tracts

awarded to belong to the Cherokee Indians as a tribe or individually, by an award on file in the suit in equity of the Eastern Band of Cherokees against Wm. H. Thomas and Wm. Johnston, pending in the circuit court of the United States at Asheville, or so much thereof as may be sufficient, on the terms one-fourth in cash and the balance in one and two years, in equal installments, with interest from the day of sale, and out of the proceeds to pay and satisfy the said balance of $18,335.65, with its interest and costs as aforesaid; and we do award that after said sum and interest and costs are paid in manner aforesaid, that William Johnston do reconvey all that remains unsold unto the said Wm. H. Thomas and his heirs; and in cases where any of the lands included in said sheriffs' deeds are in the possession of persons under title-bonds of the said Thomas, and they are owing the purchase-money or any part thereof, the same not being Indian lands forbidden to be sold in said award, filed in the court of equity aforesaid, we award that said Johnston may demand and receive the money or enforce a sale of the land through a decree for specific performance, in either instance applying the sum received in payment of his said judgments.

We award that Wm. Johnston shall account for any rents received, deducting therefrom the taxes by him paid; and if there may be an excess of the rents such shall be as a payment on the judgments, but if the taxes paid shall exceed the rents then such excess of taxes we award shall be an addition, to that extent, to the debt herein awarded to said Johnston and to be paid by sales as provided herein for the judgments.

In making such sales as herein awarded, if the commissioners shall be of opinion that any sales, made by said Johnston are for a fair price, we award that he may and shall, according to their discretion, validate the same and not resell.

We award that in selling or confirming sales, as herein awarded, the said Wm. Johnston shall execute titles on the request of said commissioners.

We award that we are entitled to receive for our investigation of the matters embraced in this award the sum of (100) one hundred dollars each, to be paid one-half by Thomas and one-half by Johnston, and if not so paid prior to the sale of any of the lands referred to then to be paid by the commissioners out of the first monies received, charging to each of said parties his half.

In witness we hereunto set our hands and seals the 23rd October, 1874.

RUFUS BARRINGER. [SEAL.]
JOHN H. DILLARD. [SEAL.]
T. RUFFIN. [SEAL.]

Whereas the Eastern Band of Cherokees brought suit in the court of equity in the circuit court of the United States in the western district of North Carolina, at Asheville, against William H. Thomas, William Johnston, and J. W. Terrell, and a suit in the names of the United States against the same parties and J. B. Allison and A. J. Murry on the law side of said court, to recover the sum of twenty-five thousand dollars, the penalty of the official bond of said J. W. Terrell, as agent of the Government for disbursements of certain sums to said Indians;

And whereas the said suits and all other unsettled matters between said parties or any of them, and between any Indians residing in North Carolina, and any of said parties defendant, have been referred to the arbitrament and award of Gen. Rufus Barringer, Judge Thomas Ruffin, and John H. Dillard, esq., who have the same under consideration;

And whereas some difference of opinion exists between the defendants William H. Thomas and William Johnston as to the amount of indebtedness of the former to the latter, as to the land purchased by the said Johnston at execution sales as the property of the said Thomas, and as to the right of said Thomas to redeem the same:

Now it is agreed by and between the said William H. Thomas and William Johnston to refer to the arbitrament and award of the said Rufus Barringer, Thomas Ruffin, and John H. Dillard, all matters of difference between them, with full power to decide and award between them according to the equity of the case, they being the judges thereof, and we the said parties will abide the same.

Witness our hands and seals, Sept. 11th, 1874.

WM. H. THOMAS. [SEAL.]
W. JOHNSTON. [SEAL.]

Attest:
W. P. WELCH.

It is understood that a reasonable compensation shall be paid to the referees above mentioned to be paid equally by each.

W. JOHNSTON.
WM. H. THOMAS.

Attest:
W. P. WELCH.

I, N. W. Woodfin, with whom the award between William Johnston and Wm. H. Thomas was deposited for safe keeping by the arbitrators, Rufus Barringer, Thomas Ruffin, and John H. Dillard, certify that the foregoing is a true copy thereof.

N. W. WOODFIN.

NOV. 24TH, 1874.

EXHIBIT C.

This indenture, made this 9th day of October, 1876, between William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, State of North Carolina, of the first part, and the Eastern Band of North Carolina Cherokee Indians of the second part, witnesseth: That, whereas, at the November term, 1874, of the circuit court of the United States for the western district of North Carolina, the case of the Eastern Band of the Cherokee Indians against Wm. H. Thomas, William Johnston, and James W. Terrill in equity, and the case of the United States and the Eastern Band of Cherokee Indians *vs.* James W. Terrill *et al.*, came on to be finally heard together upon the award of Rufus Barringer, John H. Dillard, and T. Ruffin, the arbitrators duly appointed at the May term, 1874, of said court, to hear and determine the matters in controversy between said parties, and which award has been rendered to the court, and states, among other things:

1st. That William H. Thomas became and was the agent of the Eastern Band of the Cherokee Indians living in North Carolina, who are the plaintiffs in the above two causes, after the removal of their brethren west in the year 1838, and as such undertook to purchase, and did purchase, for them land, the amount, location, and boundary whereof will hereinafter be fully described, to be paid for with money or moneys coming to them from the United States under treaties with and the laws of the said United States.

2nd. That the said William H. Thomas, in pursuance of his said agency and trust reposed in him, did, from time to time, and from various persons, purchase lands for the plaintiffs as a tribe and community and settlement thereon, and carved up the same into towns, which said purchases are included in and make a large tract situated on Soco Creek and Ocona Lufta River and their tributaries, known as the Qualla Boundary, and bounded as follows, to wit: Beginning at a stump near the spring on Jackson County line, at the head of Jonathan's Creek, where the Soco road crosses the mountain; thence in a northerly direction with the said county line to the ridge which divides the waters of the Ravin's Fork from Bradley, or west fork of Ocona Lufta River; thence with the water-shed of that ridge to the line of Widow Hugh's; thence eastwardly, with her line, crossing Ravin's Fork; thence down, and with her lines and the lines of Wesley M. Enloe, to the Ocona Lufta River; thence down with the meanders of said river to the southern boundary of Samuel Monteith; thence across said river, and with said Monteith's line, to his southwest corner; thence with the lines of an entry made by W. H. Thomas, and other lines of said Thomas, keeping

on his outside lines to the dividing ridge between the waters of Adam's Creek and Newton's Mill Creek, so running said line as to include all the Indians living on the headwaters of said Adam's Creek; thence in a southerly direction, keeping on the water-shed of said ridge, to the line of Sim Sherrell; thence, with his line, to Ocona Lufta River; the last two lines being run so as to include all the Indian settlements on the east side of Newton's Mill Creek; thence with and across the said Ocona Lufta River, to the upper boundary of J. M. Bird; thence, with his line, to the corner of the first tract of what is known as the State surveys above the said Bird; thence up said river, with the lines of said State surveys so as to include one tier of old surveyed tracts bordering on said river, and striking said river below Ute Sherrell's, excluding the tract now occupied by J. A. Gibbs, and also some entries known as Thomas's entries; thence up, and with the meanders of said river, to a tract of land occupied by an Indian named Ah-ma-cha-ma; thence, with the line of that tract, and including the same, to the old line of Scroop Enloe, or near it, but so as to exclude the tract now occupied by Mason Reckley; thence, with the line of the tract so occupied by Reckley, crossing the Soco Creek below his house, to the old line of said Scroop Enloe; thence, with Enloe's line, to the line of Thomas's mill tract; thence, with the line of said mill tract and with the line of an entry known as Thomas's five hundred acre entry, and leaving the same outside, to the line of J. B. Sherrell's; thence, with his line, to the line of a tract conveyed to Flying Squirrel by J. W. King; thence, with the line of that tract, and so run as to include it, to the line of the Thompson Carter tract; thence with that tract, and so run as to include it, to the top of the ridge which makes the water-shed between Soco Creek and Shoal Creek; thence, with the said water-shed, to the south corner of the Cathcart survey; thence, with the line of that survey to the beginning at the head of Jonathan's Creek.

3d. We do, therefore, award that the general boundary, known as the Qualla Boundary, and above described, belongs to, and shall be held by the Eastern Band of Cherokee Indians, living in the State of North Carolina, as a tribe or community, and whether living at this time at Qualla or elsewhere in the State; and that the individual Indians above named as holding under said Thomas, either by deed or contract, shall hold and possess their several tracts as their separate property, with the quality of being inheritable, but without the power of alienation except from one Indian to another, and then only with the assent of their council. All the above, however, to be subject to the payment of a sum of money to William Johnston as hereinafter provided.

6th. We find that in the course of the agency and trusteeship of the

defendant Thomas for the plaintiffs he received, in the way of payments by the Government, contributions from individual Indians, and from sales of lands, within the said common boundary at Qualla to individual Indians large sums of money; that on the other hand, by reason of the purchase for them of their lands, by his services rendered them in securing their claims, and by his furnishing them, through a long series of years, with clothing, food, farming tools, and other necessary supplies, they became largely indebted to him; that after adjusting all claims of every kind and description between them, except as hereinafter mentioned, we find that the said Indians owe the said Thomas a balance towards the purchase money of the said Qualla Boundary of $18,250; that after the purchase of the said lands by the defendant Johnston, under his executions against the defendant Thomas, the plaintiffs in pursuance of a contract made with the said Johnston for the redemption of said lands on the 29th day of September, 1869, paid to him the said Johnston, the sum of $6,500, which said payment we award that the said Johnston shall apply as a credit on his said judgments against Thomas as money paid by the plaintiffs toward the balance above stated as due from them to Thomas; that the said sum of $6,500 with interest to this day amounts to the sum of $8,486, thus reducing said balance due Thomas to the sum of $9,764.

7th. We find, in the suit at law on the bond of Terrell and his sureties, that the said defendant Terrell paid over to the said defendant Thomas, his bondsman, the sum of $2,478, which is sought to be recovered in said suit on his bond, relying on him to pay it out to those entitled; and we further find that though such payment to Thomas was not in strict compliance with the conditions of his bond, yet this sum being paid to Thomas to whom the plaintiffs authorizing him to receive the same and apply it toward the payment of said purchase money for their lands, we do, therefore, award that the said sum with its interest, this day making $2,697.89, be deducted from the above balance of $9,764, thus reducing it to the sum of $7,066.11; and upon the payment of this last-mentioned sum, to wit, the sum of $7,066.11 with its interest from this date at the rate of six per cent. per annum, to the said defendant Johnston, and by him to be entered as a credit on his said judgments against Thomas, we do further award that the said plaintiffs shall have a perfect equity to demand and have of him, the said Johnston, a conveyance of the legal title to all the lands embraced within their said Qualla Boundary, the same to be made to them or to some trustee for them; and until such conveyance be made the said Johnston, so soon as said balance is paid him, shall himself stand seized as a naked trustee of said lands to the use of said plaintiffs.

And whereas, upon such final hearing, it was ordered and decreed by the court that the "award of said arbitrators be made an order of this court, and that the same be observed and performed by all the parties thereto according to the tenor and the meaning thereof": Now this indenture witnesseth, that the said party of the first part, in consideration of the aforesaid sum of seven thousand and sixty-six dollars and eleven cents, awarded by said arbitrators, and to him in hand paid by the Eastern Band of North Carolina Cherokee Indians at and before the ensealing and delivery of these presents, the receipt and payment whereof he doth hereby acknowledge, hath granted, bargained, sold, released, and confirmed, and by these presents, in pursuance of the said order of court, and by force and virtue thereof, doth grant, bargain, sell, release, and confirm unto the said party of the second part, their heirs and successors, all that certain piece and parcel of land situate, lying, and being in the State aforesaid, and bounded and described as follows, to wit:

[The elaborate description of the property conveyed is omitted as unnecessary for the purposes of the bill.]

For a more full and perfect description of which tract of land reference is here made to the field-notes of the survey of the same, on file in the General Land Office, or a copy of the same on file in the Office of Indian Affairs, Washington, D. C., marked L 236 (1876), together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversing and remainders, rents, issues, and profits thereof. To have and to hold the said above-described premises with the appurtenances thereunto belonging unto the said Eastern Band of North Carolina Cherokee Indians, their heirs and successors, forever. But without the power of alienation, except by and with the assent of their council, and the approval of the President of the United States.

This deed is executed and delivered in pursuance of the award and decree of the court in above-mentioned case of "Eastern Band of Cherokee Indians *vs.* William H. Thomas *et al.*," and is intended to convey to said "Eastern Band of Cherokees" the interests acquired by said William Johnston in and to the above-described lands, under deed of conveyance made to him by the sheriff of Jackson, in June, 1869, by virtue of sales of said lands made in pursuance of executions in the hands of said sheriff, issued on judgments in favor of said Johnston against William H. Thomas, and no further.

In witness whereof, the said parties of the first part have hereunto set their hands and seals this 9th day of October, 1876.

WM. JOHNSTON. [SEAL.]
L. M. JOHNSTON. [SEAL.]

In probate court.

BUNCOMBE COUNTY:

Be it known that on this the 9th day of October, 1876, before the undersigned, judge of probate in and for said county of Buncombe, personally came William Johnston and wife, Lucinda M., the parties described in the foregoing deed of conveyance to the Eastern Band of Cherokee Indians, and each duly acknowledged the execution thereof for the purposes therein mentioned; and thereupon the said Lucinda M. Johnston being by me privately examined, separately and apart from the said husband, touching her free consent in the execution of said deed, doth declare upon such her examination that she executed the same freely, voluntarily, and of her own accord, without any fear, force, or undue influence on the part of her said husband, or any one else; and that she doth still voluntarily assent thereto. Therefore let said deed and this certificate be registered.

[SEAL.]

J. E. REED,
Judge of Probate.

STATE OF NORTH CAROLINA,
Jackson County:

I, A. M. Parker, probate judge of Jackson County, do adjudge from the certificate of J. E. Reed, probate judge of Buncombe County, to be correct. Therefore let the deed, with the certificate, be registered this June 30th, 1880.

A. M. PARKER,
Probate Judge of Jackson County, N. C.

Regs. fee, $10.50.
Probate judge, .25.

OFFICE OF REGISTER OF DEEDS,
June 30, 1880.

STATE OF NORTH CAROLINA,
Jackson County:

The within deed was this day duly registered in Book G, beginning on page 334 and ending on page 353.

A. J. LONG,
Register of Deeds.

In the probate court.

SWAIN COUNTY:

It is adjudged that the certificate of J. E. Reed, probate judge of Buncombe County, is correct and genuine.

Therefore let the deed with certificates be registered in Swain County.

This July 3rd, 1880.

SAM. B. GIBSON,
Probate Judge.

Office of register of deeds of Swain County, North Carolina.

I, T. H. Parrish, register of deeds of said county, do hereby certify that the foregoing and within deed with the probate's certificates and register's certificate and amount of fees did this day complete the registration in said county in Book B, No. 2, beginning on page 290 and ending on page 317.

This July the 8th, A. D. 1880.

T. H. PARRISH,
Register of Deeds for Swain County, N. C.

Regr. fees, $10.50.

EXHIBIT D.

Whereas, under an award made by Rufus Barringer, John H. Dillard, and Thomas Ruffin, arbitrators, in the case of the Eastern Band of Cherokee Indians against William H. Thomas, William Johnston, *et al.*, in the circuit court of the United States for the western district of North Carolina, James W. Terrell and Thomas D. Johnston were, by a decree of said court, appointed commissioners to sell certain lands referred to in said award to discharge and pay off the judgments therein awarded to be due to William Johnston from William H. Thomas, which said lands had theretofore been sold under execution on said judgments and conveyed by deeds executed by the sheriffs of the counties of Cherokee, Macon, and Jackson, North Carolina, to the said William Johnston; and whereas, since the date of said decree said judgments have been purchased and duly assigned to the Commissioner of Indian Affairs of the United States, in trust, and for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina, and under the provisions of an act of Congress entitled "An act to authorize the Commissioner of Indian Affairs to receive lands in payment of judgments to Eastern Band of Cherokee Indians," approved August 14, 1876, the Commissioner of Indian Affairs was authorized to purchase and receive certain lands, therein referred to, in full payment and final discharge of the aforesaid judgments, in trust and for the use and benefit of said Eastern Band of Cherokee Indians; and whereas, in pursuance of the provisions of said act of Congress, Mark C. King on the part of the Commissioner of Indian Affairs, and William A. Dills on the part of William H. Thomas, were selected as appraisers to value and appraise the lands hereinafter described, which are referred to in the aforementioned award, and were duly selected by said Eastern Band of Cherokee Indians, through a committee appointed by them at their annual general council, held at Cheoah council grounds in Graham Co.,

North Carolina, on the first Monday of October, 1876; and whereas, in consideration of the above recited facts, and in full satisfaction of the said judgments amounting to the sum of twenty thousand five hundred and sixty-one and $\frac{85}{100}$ dollars, a deed was executed on the 9th day of October, A. D. 1876, by William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, North Carolina, and James W. Terrell, of Jackson Co., and Thomas D. Johnston, of Buncombe Co., State aforesaid, commissioners named in said award, and also agents and attorneys for William H. Thomas, by virtue of a power of attorney dated June 3, 1875, to the Commissioner of Indian Affairs, as trustee for said Eastern Band of Cherokee Indians, for 15,211$\frac{1}{5}$ acres, which are referred to in the aforesaid award, in satisfaction of said judgments; and whereas, in making said deed it was found impracticable to obtain correct descriptions of the lands to be conveyed until after a survey of the same, it was agreed by and between all parties to said deed that after a survey was made a new deed should be executed by William Johnston and wife, and Messrs. Terrell and Johnston, commissioners as aforesaid, and attorneys for William H. Thomas, containing correct descriptions of said lands; and it was further understood and agreed at the time of executing said deed between all parties to the same, that when the number of acres called for in said deed should not hold out by the survey the balance was to be made up by the said first parties from adjacent lands owned by them, and in case the area should overrun the number of acres called for in said deed, the deduction should be made in the new deed; and that all clouds upon the title to the lands in question were to be removed by said William H. Thomas, and that in case any lands included in the said deed shall have been conveyed by said Thomas to white men before the execution of the said deed of October 9, 1876, then and in such case, other lands of the same class may be substituted therefor to the extent of 600 acres, it being contemplated in said deed to convey just the number of acres at the value fixed by the appraisers necessary to liquidate the judgments aforesaid; and whereas said lands which have unclouded titles have been surveyed, and correct descriptions and area obtained, and it has also been found that part of the lands included in the State grants embraced in said deed have been conveyed by said Thomas to white men before the execution of the same, and that these titles can not be cleared now, and the parties of the first part having agreed to substitute other lands therefor, which has received the approval of the Commissioner of Indian Affairs, dated June 22, 1880; and the said tracts to be so substituted having been duly selected by the said Eastern Band of Cherokee Indians through a committee ap-

pointed by them at a special meeting of the regular council of the band held July 3, 1880, at Yellow Hill Council House, in Swaine Co., N. C.; and whereas, since the date of the first deed, the said William H. Thomas has been declared a lunatic, and William L. Hilliard, of Buncombe Co., was appointed, April 5, 1878, his guardian by the probate court of Jackson Co., N. C., and then has upon due proceedings had an order made and entered in the said probate court authorizing and directing the said guardian to make and execute title to the lands hereinafter described:

Now, therefore, in consideration of the above-recited facts, and in full satisfaction of the aforesaid judgments, which amounted at the date of the first deed, October 9, A. D. 1876, to the sum of twenty thousand five hundred and sixty-one and $\frac{85}{100}$ dollars, the following indenture (which is to take the place of the first deed) is executed:

This indenture, made and executed this (14) fourteenth day of August, in the year of our Lord one thousand eight hundred and eighty, by and between William Johnston and wife, Lucinda M. Johnston, and William L. Hilliard, of Buncombe Co., North Carolina, guardian of William H. Thomas, as aforesaid, and James W. Terrell, of Jackson Co., and Thomas D. Johnston, of Buncombe Co., State aforesaid, commissioners under the said decree of the circuit court of the United States for the western district of North Carolina, at the November term, A. D. 1874, at Asheville, and also as agents and attorneys for William H. Thomas by virtue of a power of attorney to them, dated June 3, 1875, of the first part, and the Commissioner of Indian Affairs of the United States as trustee for said Eastern Band of Cherokee Indians of North Carolina of the second part, witnesseth:

That the said parties of the first part, for and in consideration of the premises, and in the further consideration of the payment of the amount and final discharge of said judgments, amounting to twenty thousand five hundred and sixty-one and $\frac{85}{100}$ dollars, the receipt whereof is hereby confessed and acknowledged, have granted, bargained, sold, aliened, enfeoffed, released, and conveyed, and do by these presents grant, bargain, sell, alien, enfeoff, release, and convey unto the party of the second part, the Commissioner of Indian Affairs and his successors in office, as trustee for the Eastern Band of Cherokee Indians of the State of North Carolina, all their right, title, interest, claim, or demand whatsoever in and to the following-described lands, to wit:

1. The land awarded to Dick-ageeske's heirs, being section 367 in district number nine in Graham County, N. C., bounded and more particularly described as follows, viz: Beginning on a hickory on a ridge N. W. corner of 405, from which a B. oak 6 in. dia. bears S. 37 W. 7 links dist., and a B. oak 6 in. dia. bears W. 20 links dist.; thence N. 50

E., reaching corner No. 2 at 90 poles a hickory (fallen) corner on a small hickory; thence S. 50 E. alongside of a ridge reaching a chestnut in a hollow at 180 poles, cor. 3 (formerly a stake); thence S. 50 W. 90 poles to a post oak on a ridge, beginning cor. of No. 405; thence N. 50 W. with the line of No. 405 180 poles to the beginning, containing one hundred acres.

2. The land awarded to Oo-tal-ka-nah, being section three hundred and seventy-three in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak 5 poles from N. bank of Snowbird River, from which a white oak 28 in. dia. bears S. 30 E. 47 links dist., and a B. oak 8 in. dia. bears N. 50 E. 32 links dist.; thence N. 30 E. reaching corner at 100 poles, a sourwood on a rock (fallen), corner on a hickory; thence E. 140 poles to a red oak (fallen), cor. on a white oak, corner 3 and corner 2 of tract No. 1995; thence S. 30 W. 100 poles to a cottonwood on the N. bank of Snowbird River; thence up the river as it meanders, reduced to direct line 140 poles to the beginning, containing seventy-five acres.

3. The land awarded to Chin-aque (or John Owl), "whereon he lived in 1855, in Cherokee County, excepting all mineral interest," being tract number 98 in district number one in said county, on the waters of Vengeance Creek, bounded and more particularly described as follows, viz: Beginning at a pine the beginning corner of No. 97 from which a white oak 15 in. dia. bears N. 2 E. 34 links dist. and a white oak 20 in. dia. bears N. 55 E. 30 links distant and hickory 12 in. dia. bears S. 47 E. 27 links dist. thence E. crossing Vengeance Creek at 34 poles, reaching corner at a birch at 108 poles; thence N. crossing Vengeance Creek, reaching corner at 126 poles, corner on a sassafras; thence W. 108 poles to a B. oak cor. of No. 96; thence S. with the line of No. 96 126 poles to the beginning, containing eighty-five acres.

4. The land awarded to Too-way-al-lah, being part of number twelve in district number ten, in Graham Co., N. C., bounded and more particularly described as follows, viz: Tract lying on the waters of Snowbird Creek; beginning on a post the NW. corner of 363 of the State survey, from which a black oak 6 in. dia. bears N. 4 W. 24 links dist., and a white oak 6 in. dia. bears S. 85 W. 43 links dist.; thence S. 65 W. 180 poles to a chestnut oak, corner 2; thence S. 40 E. 90 poles to a hickory, corner 3, on the side of a ridge; thence N. 65 E. 180 poles to a hickory on a line of No. 363 of the State survey, corner 4; thence with said line N. 40 W. 90 poles to the beginning, containing ninety-nine acres.

5. The land awarded to Corn Silk, being section 588 in district number nine, in Graham Co., N. C., bounded and more particularly described

as follows, viz: Beginning on a hickory from which a black gum 6 in dia. bears N. 32 W. 23 links dist., and a white oak 12 in. dia. bears N. 75 E. 60 links dist.; thence S. 66 W. 90 poles to a white oak near a trail, corner 2; thence N. 53 W. 180 poles to a chestnut (fallen) corner on a spruce pine, corner 3; thence N. 66 E. reaching Snowbird River at 44 poles, reaching a chestnut at 90 poles on the N. bank of said river, corner 4; thence S. 53 E. crossing river at 2 poles, reaching beginning at 180 poles, containing ninety acres.

6. The land awarded to Tracking Wolf, being section 404 in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a Spanish oak, formerly a hickory, from which a chestnut 48 in. dia. bears S. 42 W. 34 links distant, and a chestnut oak 20 in. dia. bears N. 68 E. 25 links dist.; thence N. 35 W. 160 poles to a spruce pine in the line of No. 367, corner 2; thence with said line S. 50 W. 40 poles to a post oak, corner 3, and beginning corner of No. 405, 4 corner of No. 367; thence S. 10 E. 10 poles with the line of No. 405, 20 poles to a post in a field; thence S. 35 E. crossing Snowbird River at 28 poles, reaching corner No. 4 at 140 poles, a hickory, formerly a stake on W. bank of Snowbird River; thence N. 10 E. along face of mountain, crossing Snowbird River at 72 poles, passing corner No. 59 at 84 poles, reaching the beginning at 125 poles, containing ninety-three acres.

7. The land awarded to Richard Henson in section fourteen in district number five, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black oak (fallen), set a post which stands S. 160 poles from No. one connecting line of this tract, from which a Spanish oak 4 in. dia. bears S. 12 W. 10 links dist. and a black oak 4 in. dia. bears N. 59 W. 12 links dist.; thence S. 160 poles to a black oak, the N. W. cor. of No. 4; thence E. 103 poles to a black gum, the S. W. corner of No. 9 in the gap of small ridge near the new turnpike road; thence N. 160 poles, reaching corner NW. corner of No. 9 (fallen), set a post; thence W. 103 poles to the beginning, containing one hundred and three acres.

8. The land awarded to Richard Henson and others, and their heirs, in section eleven in district number five, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post the N. W. cor. of tract No. 9, and the N. E. cor. of No. 2 of the U. S. survey, from which a white oak 15 in. dia. bears N. 61 E. 42 links dist., and a B. oak 12 in. dia. bears S. 9 W. 30 links distant; thence E. 160 poles to a post oak on top of hill N. E. cor. of No. 9; thence N. passing N. W. cor. of No. 8 at 80 poles, reaching corner at 439 poles (fallen), set a post from which a sassafrac 12 in. dia. bears N. 30 E. 32 links dist., and

a chestnut 14 in. dia. bears N. 77 W. 30 links distant; thence W. crossing turnpike road at 124 poles, total distance 160 poles, to corner 3 (set a post), from which a red oak 10 in. dia. bears S. 74 E. 15 links dist., and a pine 12 in. dia. bears N. 10 E. 25 links dist.; thence S. recrossing turnpike road at 70 poles, reaching the beginning at 439 poles, containing four hundred and thirty-nine acres.

9. The land ("bounty claim") awarded to Richard Henson, in district number five, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning at a post oak SW. corner of No. 21, from which a post oak 20 in. dia. bears S. 10 W. 20 links dist. and a hickory 6 in. dia. bears N. 82 E. 19 links dist. and a chestnut 6 in. dia. bears N. 22 W. 4 links dist.; thence W. reaching cor. at 139 poles; thence N. 45 W. 48 poles, but found to be S. 72 poles to a hickory (fallen), set a post from which a white 8 in. dia. bears N. 18 W. 35 links dist. (no other witness tree available); thence W. crossing Hanging Dog at 47 poles, reaching corner at 67 poles; thence N. 45 W. 47 poles to corner of No. 20; thence N. 41 poles to a pine in line of No. 20; thence W. reaching corner at 379 poles and with Fains donation line; thence S. 1 W. reaching cor. at 95 poles; thence S. 20 W., found to be S. 68 W., crossing a small ridge reaching cor. at 66 poles; thence S. 9 E. 59 poles, found to be 66 poles; thence S. 8 poles to a post oak, NE. cor. of No. 58; thence S. 186 poles, passing Campbell Taylor's farm, it being corner of No. 56 (fallen), set a post from which a B. oak 12 in. dia. bears S. 20 E. 35 links dist. and a B. oak 11 in. dia. bears S. 9 W. 35 links dist.; thence N. 57 E., found to be N. 67 E., reaching cor. at 77 poles on side of a hill; thence S. 23 E., found to be S. 70 E., reaching cor. at the E. bank of Grape Creek, crossing creek at 79 poles; thence S. 43 E. 28 poles, recrossing Grape Creek, NW. of No. 61 corner tree fallen, set a post, no witness trees available; thence E. crossing a dim road at 48 poles, passing over rolling land, and NE. cor. of No. 61 at 102 poles, reaching NE. cor. of No. 62 at 268 poles; thence S. 123 poles to a post oak SE. cor. of No. 62; thence W. with the line of No. 62, 52 poles to a post oak in said line; thence S. 141 poles to a B. oak in N. boundary line No. 36; thence E. 222 poles with the line of No. 36 and 35, passing its cor. at 60 poles, a B. oak and stake is NE. cor. of No. 35; thence N. 120 poles to a small black oak, NW. cor. of No. 14 (not found), set a post, crossing Hanging Dog Creek at 80 poles; thence E. with the line of No. 14, 166 poles to a small post oak; thence N. passing NW. cor. of No. 16, crossing a small branch at 124 poles, ascending a long ridge reaching top of ridge at 336 poles, descending hill reaching corner at 434 poles a hickory in line of No. 44, cut down, corner on a B. oak; thence W. passing SW. corner of No. 44 at 10 poles, reaching corner at 100 poles SW.

and beginning corner of No. 22; thence N. thro. flat land reaching the beginning at 100 poles, containing two thousand one hundred and eighty acres.

10. The land awarded to "Salka-nah and others," in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Tract number sixty-three, in district number six, beginning on a Spanish oak NE. cor. of number 61, from which a B. oak 6 in. dia. bears S. 40° E. 12 links distant, and a Spanish oak 6 in. dia. bears NW. 36 links dist.; thence N. over rolling land 121 poles to a B. oak in gap of ridge; thence W. across side of mountain with the line of No. 64, 121 poles to a blackjack; thence S., ascending mountain, reaching cor. at 121 poles, a black oak; thence E. with the of No. 61, 121 poles to the beginning, containing ninety-one acres.

11. The land awarded to Tes-a-tees kak, situated in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a small hickory on the E. bank of Snowbird River, old corner (fallen), from which a hickory 6 in. dia. bears N. 45 W. 7 links distant, and a white oak 6 in. dia. bears S. 45 W. 15 links distant; thence E. ascending mountain, reaching corner on side of said mountain at 94 poles a hickory, corner 2; thence S. along the face of the mountain, descending gradually, reaching Snowbird River at 110 poles, this point being N. 55 W. 116 poles from the 2d and NE. cor. of No. 367, beginning to ascend a steep mountain at 115 poles, reaching corner No. 3, a chestnut, at 127 poles; thence W. along the side of a mountain, reaching corner at 94 poles, a chestnut (fallen), corner on a white oak, corner 4; thence N., descending mountain, reaching river at 124 poles, reaching beginning at 127 poles, containing seventy-four acres.

12. The land awarded to George Oo yah-ste-ah, in section 365, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a B. oak from which a white oak 8 in. dia. bears E. 34 links dist. and a Spanish oak 6 in. dia. bears W. 14 links dist.; thence S. 90 poles to a chestnut, corner No. 2; thence W. ascending a mountain gradually reaching top 106 poles, beginning to descend mountain at 108 poles, reaching base at 165 poles, reaching an apple tree at 180 poles, corner No. 3; thence N. 90 poles to a B. oak, formerly a stake, corner No. 4; thence E. ascending mountain reaching top at 20 poles; thence along the face of the mountain 180 poles to beginning, containing one hundred and one acres.

13. The land awarded to Cah-nah-a-to-go and others, in section 405, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak on a ridge from which a B. oak 6 in. dia. bears S. 29 E. 70 links dist. and a B. oak

14 in. dia. bears N. 37 links dist.; thence N. 50 W. reaching Snowbird River at 108 poles, reaching a hickory at 180 poles, corner No. 2, with the line of No. 367; thence S. 10 E. reaching an iron-wood in a cove at 90 poles, corner No. 3; thence S. 50 E. crossing Snowbird River at 146 poles; thence over flat land crossing river at 162 poles, crossing again at 180 poles, reaching corner at formerly a stake but made on a large spruce pine at 180 poles, corner No. 4; thence N. 90 poles to beginning, containing sixty-three acres.

14. The land awarded to Co-he-los-kah, in section 93, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak on point of a ridge, at N. E. corner of No. 17, from which a post oak 14 in. dia. bears S. 47 W. 50 links dist. and a white oak 10 in. dia. bears N. 60 west 10 links dist.; thence W. with the line of No. 17, reaching Snowbird Creek at 108 poles, reaching a post on the W. bank at 112 poles, corner No. 2; thence N. with the line of No. 98, reaching the E. bank of Snowbird River at 24 poles, running over smooth rolling land 190 poles to a post oak, corner No. 3; thence E. with the line of No. 96, 112 poles to a young B. oak for cor. No. 4, and N. W. corner of No. 91; thence S. with the line of No. 91, 190 poles to the beginning, containing one hundred and thirty-three acres.

15. The lands awarded to Checs-que-ne-tah (or Tom-tee-ote-lah), in district number ten, in Graham Co., N. C., on the waters of Buffalo Creek, bounded and more particularly described as follows, viz: Beginning on a small chestnut on bank of branch 5 poles N. from N. W. corner of tract No. 13, in district number ten, from which a white oak 12 in. dia. bears N. 50 links distant, and a white oak 8 in. dia. bears S. 76 W. 30 links dist. Thence N. 67 W. reaching a pine at 180 poles, on side of mountain, corner No. 2; thence S. along side of a mountain 165 poles to a large hickory in a cove, corner No. 3; thence E. descending gradually, reaching a pine at 160 poles, in the line of No. 13, cor. No. 4; thence N. with the line of No. 13, 92 poles to the beginning, passing N. E. cor. of No. 13 at 87 poles, containing one hundred and twenty-eight acres.

16. The land awarded to Tetal-ka-nah, being tract No. 91, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak on the S. side of a hill, N. W. cor. of No. 19, from which a B. oak 14 in. dia. bears N. 67 W. 100 links dist., and a hickory 6 in. dia. bears N. 56 E. 30 links dist; thence W. with the lines of numbers 95 and 96 over rolling land 197 poles, to a young B. oak in the line of No. 96; thence S. with the line of No. 93 190 poles to a white oak on point of a ridge for corner No. 2; thence E.

with the line of No. 16 and 15 ascending a hill at 24 poles, reaching top at 112 poles, descending at 114 poles, passing corner of No. 16 at 152 poles, total 197 poles, to a B. oak for corner No. 4; thence N. 190 poles to the beginning, with the line of No. 19, containing two hundred and thirty-four acres.

17. Tract number seventeen, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a mountain oak on point of ridge S. W. corner of No. 91, from which a post oak 14 in. dia. bears S. 47 W. 50 links dist., and a white oak 10 in. dia. bears N. 60 W. 10 links dist.; thence S. over rolling land with the line of No. 16, reaching at 184 poles a hickory on the side of a mountain for cor. No. 2; thence W., reaching a hickory on side of a mountain at 112 poles, corner No. 3; thence N. over rolling land 160 poles to Snowbird River, reaching at 184 poles to a post, corner No. 4, on the W. bank of said river, from which a spruce pine 6 in. dia. bears S. 6 E. 40 links dist., and a chestnut 12 in. dia. bears S. 6 E. 40 links dist., and a chestnut 12 in. diameter bears N. 4 W. 44 links dist.; thence E. with the line of No. 93, crossing Snowbird River 4 poles wide, runs N. E., reaching at 112 poles the beginning, containing one hundred and twenty-eight acres.

18. Tract number 37, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a hickory N. E. corner of No. 33, from which a B. oak 8 in. dia. bears N. 30 W. 42 links, and a Spanish oak 20 in. dia. bears S. 20 E. 33 links distant; thence E. with the line of No. 36, reaching a pine on the side of a hill at 90 poles, corner 2; thence N. along the face of mountain, reaching corner at 120 poles, a black gum, corner 3; thence W. along the face of mountain 90 poles to a Spanish oak on side of mountain, cor. 4; thence S. along the face of mountain 120 poles to the beginning with the line of No. 32, containing sixty-seven acres.

19. Tract number 87, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut N. W. corner of 88, from which a white oak 12 in. dia. bears N. 24 E. 40 links dist., and a chestnut 38 in. dia. bears S. 16 E. 41 links dist.; thence W. crossing W. fork of Mountain Creek at 40 poles, reaching a hickory at 154 poles, corner in a hollow; thence S. 160 poles to a white oak, cor. No. 3, standing 74 poles N. from N. E. corner of No. 90; thence E. 154 poles to a small B. oak, corner 4 and corner No. 88; thence N., crossing Mountain Creek at 42 poles, running over rolling land 160 poles with the line of No. 88 to the beginning, containing one hundred and fifty-four acres.

20. Tract number 88, in district number nine, in Graham Co., N. C.,

bounded and more particularly described as follows, viz: Beginning on a B. oak S. E. cor. of No. 87, from which a B. oak 6 in. dia. bears S. 57 W. 15 links distant, and a B. oak 12 in. dia. bears N. 67 E. 13 links dist.; thence E. 104 poles to a small B. oak for cor. No. 2; thence N. 160 poles to a small white oak, corner No. 3; thence W. 15 poles to a mountain creek, reaching a chestnut at 140 poles near the foot of said hill, corner No. 4; thence S. with the line of No. 87, crossing Mountain Creek at 118 poles, reaching the beginning at 160 poles, containing one hundred and four acres.

21. Tract number 92, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a B. oak N. E. cor. of No. 84, from which a Spanish oak 18 in. dia. bears N. 3 E. 38 links distant, and a B. oak 8 in. dia. bears S. 85 W. 20 links dist.; thence E. with the line of No. 85 crossing Sweetwater Creek at six poles, reaching cor. No. 2, a B. oak near the top of mountain, at 126 poles (formerly 120 poles); thence N. along the face of mountain, crossing top of mountain at 140 poles, reaching corner No. 3 at 171 poles, a Spanish oak in a cove; thence W., ascending a mountain, crossing top of mountain at 26 poles, reaching cor. at 126 poles; thence S. descending mountain 171 poles to the beginning, containing (134) one hundred and thirty-four acres.

22. Tract number 90, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz.: Beginning on a black oak N. E. corner of No. 100, from which a post oak 14 in. dia. bears S. 88 E. 85 links dist., and a white oak 20 in. dia. bears N. 61 E. 79 links dist; thence N. 46 poles to a locust on the side of a hill for corner No. 2; thence E. reaching corner No. 3, a chestnut, at 208 poles; thence S. over rolling land 103 poles to a B. jack, S. W. corner of No. 90, for corner No. 4 with line of No. 86; thence W. 208 poles to a hickory for corner No. 5; thence N. 62 poles to the beginning, containing one hundred and forty-one acres.

23. Tract number 103, in district number nine, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak in a field N. W. cor. of No. 101 (no witness trees available); thence N. with district line ascending hill, reaching top at 44 poles, at 105 poles reaching corner No. 2, a small black oak on hillside, from which a black oak 6 in. dia. bears N. 37 W. 26 links dist., and a chestnut 8 in. dia. bears S. 82 E. 45 links distant; thence E. through flat land 146 poles to a black oak for cor. No. 3 on point of a ridge; thence S. 105 poles, reaching post oak for corner No. 4 in a line of No. 101; thence west with the line of No. 101 146 poles to the beginning, containing ninety-five acres.

24. Tract number eight, in district number ten, in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning on a hickory the S. E. cor. of No. 20 and S. W. corner of No. 21, from which a hickory 10 in. dia. bears S. 87 W. 50 links distant and a B. oak 18 in. dia. bears N. 63 W. 54 links dist.; thence S. with the line of No. 19, reaching Cheoih River at 100 poles, 8 poles wide runs N. W., reaching at 226 poles, corner a hickory near top of mountain; thence W. with the line of No. 7 along the side of a mountain, crossing a branch at 96 poles 8 links wide, and runs N., bear. cor. running through a field, ascending a high ridge at 120 poles, summit at 200 poles, then along said ridge to 284 poles to a small chestnut oak, corner No. 3, on point of ridge; thence N. descending ridge, reaching a branch at 72 poles 10 links wide, runs E. crossing a branch 12 links wide, reaching at 226 poles corner, a hickory; thence E. 284 poles to the beginning, containing four hundred and one acres.

25. Tract number seven, in district number one, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning at a hickory at the foot of a mountain near a branch from which a hickory 14 in. dia. bears N. 38 W. 20 links dist., and a white oak 16 in. dia. bears S. 15 W. 22 links dis.; thence N. 200 poles to a b. oak fallen corner on a hickory; thence W. 156 poles to a Spanish oak on top of a mountain (fallen), set a post, thence S. 200 poles to a b. oak corner, thence E. 156 poles to the beginning, containing one hundred and ninety-five acres.

26. Tract number 56, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a black jack, N. W. cor. of No. 55, from which a b. jack 9 in. dia. bears N. 66 W. 25 links dist., and a b. gum 6 in. dia. bears S. 1 W. 10 links dist.; thence W. with the line of No. 61, 265 poles to a stake and pointers, cor. on a b. oak on line of No. 59; thence S. 190 poles, passing corner of No. 59 at 86 poles, corner on a chestnut oak, No. 3; thence E. with the line of No. 17, 265 poles to a pine; thence N. with line of No. 55, 190 poles to the beginning, containing three hundred and fourteen acres.

27. Tract No. 57, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black jack, on a ridge, the beginning of No. 56, from which a b. jack 9 in. dia. bears N. 66 W. 25 links dist., and a black gum 6 in. dia. bears N. 1 W. 10 links dist.; thence N. with the line No. 61, 170 poles to two hickories in a flat; thence E. with the line of No. 58, 220 poles to a hickory on a ridge (fallen) corner on a black gum; thence S. with the line of No. 51, 170 poles to a black oak, corner 4, and beginning corner

of No. 55, thence W. with the line of No. 55, 220 poles to the beginning, containing (233) two hundred and thirty-three acres.

28. Tract No. 58, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak, on point of a ridge, the beginning cor. of 52, from which a white oak 8 in. dia. bears N. 85 W. 10 links dist.; thence W. 220 poles to a stake, corner on a white oak; thence S. 206 poles, to two small hickories in a flat; thence with the line of No. 57, 220 poles to a hickory, N. E. corner of No. 57 (fallen) corner on a black gum; thence N. with a line of No. 52, 206 poles to the beginning, containing (283) two hundred and eighty-three acres.

29. Tract No. 59, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a post oak, N. E. cor. of No. 9, from which a p. oak, 15 in. dia., bears N. 65 E. 45 links dist., and a hickory 6 in. dia., bears N. 27 W. 20 links dist.; thence E. with the line of No. 60, 90 poles to a hickory in a hollow near a branch; thence S. with the lines of Nos. 61 and 56, 176 poles to a post in a line of No. 56, passing corner of 61 at 90 poles; thence W. with the line 90 poles to a b. oak near a branch; thence N. with the line of No. 9, 176 poles to the beginning, containing ninety-two (92) acres.

30. Tract No. 60, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in a hollow in a line of No. 61, from which a hickory 12 in. dia. bears S. 50 E. 40 links dist. and a Spanish oak 15 in. dia., bears N. 41 E. 45 links dist.; thence N. with the line of No. 61, 80 poles to a white oak on the S. bank of a branch, corner 2; thence W. 30 poles to a mountain birch on the S. bank of Valley River, at the mouth of a branch, cor. 3; thence down said river as it meanders, S. 40 W. 36 poles; S. 65 W. 14 poles; N. 65 W. 25 poles; N. 32 W. 68 poles; N. 62 W. 13 poles; W. 15 poles; S. 37 W. 46 poles; S. 21 W. 58 poles; S. 31 poles to a white oak on bank of said river (fallen), cor. on a locust; thence E. with the lines Nos. 9 and 59, 204 poles to the beginning, containing ninety-six acres.

31. Tract No. 96, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a chestnut, the beginning cor. of No. 95, from which a b. gum 14 in. dia. bears N. 30 E. 42 links dist., and a red oak 14 in. dia. bears N. 8 W. 32 links dist.; thence E. with the line of No. 95, 86 poles to a pine on a knoll; thence N. with the line of No. 98, 126 poles to a b. oak, N. W. cor. of No. 98; thence W. with the line of No. 99, 86 poles to a corner from which a chestnut oak 12 in. dia. bears N. 24 W. 52 links dist.,

and a pine 12 in. dia, bears N. 83 E. 40 links dist.; thence S. 146 poles to the beginning, containing sixty-seven acres.

32. Tract No. 61, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak, N. E. cor. of No. 60, from which a chestnut 6 in. dia. bears S. 14 W. 15 links dist., and a maple 6 in. dia. bears N. 26 W. 20 links dist.; thence S. with the lines of Nos. 60 and 59, 170 poles to a stake, cor. on a b. oak; thence E. with the line of No. 56, 265 poles to a black-jack, cor. 3, and beginning of Nos. 56 and 57; thence N. with the line of No. 57, 170 poles to two hickorys in a field, cor. 4, and N. W. cor. of No. 57; thence W. 265 poles to the beginning, containing two hundred and eighty-one acres.

33. Tract No. 97, in district number one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a pine on a knoll, the beginning of No. 98, from which a white oak 15 in. dia. bears N. 2 E. 34 links distant, and a white oak 20 in. dia. bears N. 55 E. 30 links dist., and a hickory 12 in. dia. bears S. 47 E. 27 links dist.; thence S. with the line of No. 95, 6 poles to Vengeance Creek, reaching cor. at 116 poles a white oak S. E. cor. of No. 95; thence E. 108 poles to a maple, cor. No. 3; thence N. 116 poles to a beech, cor. 4 and S. E. cor. of No. 98; thence W. with the line of No. 98, 108 poles to the beginning, containing seventy-eight acres.

34. Tract No. 99, in district number one, in Cherokee County, N. C., bounded and more particularly described as follows, viz: Beginning on a black oak (fallen) the beginning of No. 93, from which a b. oak 12 in. dia. bears N. 15 E. 33 links dist., and a post oak 6 in. dia. bears N. 41 W. 41 links dist.; thence N. 96 poles to a b. oak, the beginning cor. of No. 100; thence E. with the line of No. 100, 206 poles to a stake cor. on maple on N. bank of Vengeance Creek; thence S. 18 W. 98 poles to a black oak N. E. cor. of No. 96; thence W. 178 poles to the beginning, containing one hundred and fifteen acres.

35. Tract No. 100, in district No. one, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak NW. cor. of No. 99 (no witness trees available); thence N. 114 poles to a b. jack in district line No. 7, from which a pine 12 in. dia. bears N. 67 E. 17 links dist., and a pine 12 in. dia. bears N. 32 W. 17 links dist.; thence E. 245 poles to a b. oak with the district line No. 7 (cor. not found, made on a black oak); thence S. 18 W. 120 poles to a maple on the N. bank of Vengeance Creek; thence W. with line of No. 99, 206 poles to the beginning, containing one hundred and sixty acres.

36. Tract number fifteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning

at a chestnut N.W. cor. of No. 9, from which a hickory 12 in. dia. bears S. 31 E. 37 links dist., and a chestnut 14 in. dia. bears N. 45 W. 3 links dist.; thence W. 75 poles to cor. on a chestnut oak, cor. 2; thence S. 126 poles to a stake N. W. cor. of No. 8; thence E. with the line of No. 8, 75 poles to a Spanish oak, formerly a stake; thence W. with the line of No. 9, 126 poles to the beginning, containing fifty-nine acres.

37. Tract number sixteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a locust on top of a mountain between Valley River and Hanging Dog Creek in the line of No. 15, from which a hickory 12 in. dia. bears N. 15 W. 11 links dist., and a b. oak, 16 in. dia. bears N. 32 E. 38 links dist.; thence W. 15 poles to a chestnut oak, corner 2; thence N. 160 poles to a stake corner on a chestnut, cor. 3; thence E. 75 poles to a sourwood N. W. cor. of No. 14; thence S. with the line of No. 14, 160 poles to cor. from which a hickory 12 in. dia. bears S. 31 E. 37 links dist., and a chestnut 14 in. dia. bears N. 45 W. 3 links dist.; thence W. with the line of No. 15, 60 poles to the beginning, containing 75 acres.

38. Tract number thirty-two, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory 20 poles N. of S. W. cor. of No. 34, from which a b. jack 8 in. dia. bears S. 27 E. 23 links dist., and a locust 9 in. dia. bears N. 57 E. 20 links distant; thence N. 200 poles to a large white pine near Calvert's Creek; thence W. 198 poles to corner formerly a stake, corner on a hickory; thence S. 200 poles, cor. on top of a ridge N. W. cor. of No. 31; thence E. 198 poles to the beginning, with the line of No. 31, containing two hundred and forty-seven acres.

39. Tract number thirty-four, in district number 6, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a red oak N. E. cor. of No. 33, from which a b. oak 6 in. bears S. 67 E. 44 links dist., and a red oak 6 in. dia. bears S. 15 E. 13 links dist.; thence N. 200 poles to a black jack, corner cut down, corner on a small black oak on a ridge; thence 174 poles to a b. oak on side of a hill near Calvard's Creek, S. W. cor. 35; thence S. 200 poles corner on a hickory, corner of No. 33; thence E. 174 poles to the beginning, containing two hundred and seventeen acres.

40. Tract number thirty-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a b. oak N. W. cor. of No. 34, on the side of a hill near a creek from which a Spanish oak 8 in. dia. bears S. 32 E. 27 links distant, and a chestnut 36 in. dia. bears S. 13 W. 32 links dist., and a hickory 12 in. dia. bears S. 85 W. 40 links dist; thence N. 189 poles to a b. oak (fallen) corner on a poplar; thence E. 174 poles to a poplar in an old crossing;

thence S. 189 poles to a black jack N. E. cor. No. 34, cut down, cor. on a small b. oak on a ridge; thence W. with the line of No. 34, 174 poles to the beginning, containing two hundred and five acres.

41. Tract number forty-eight, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz; Beginning on a Spanish oak S. W. of No. 62 (not found), cor. on a b. oak, N. W. cor of No. 57, from which a chestnut oak 24 in. dia. bears N. 1 W. 42 links dist., and a hickory 9 in. dia. bears S. 15 E. 35 links dist.; thence N. with the line of No. 62, 112 poles to a hickory on a high hill; thence W. 124 poles corner a black jack, found to be a black gum, on the E. bank of Fodder's Creek in the line of 59; thence S. with the line of 59, 112 poles, corner a locust (formerly a stake), N. W. cor. of tract 53; thence E. 124 poles to the beginning with the line of No. 53, containing eighty-six acres.

42. Tract fifty-three, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak N. E. corner of No. 53, from which a b. oak 10 in. dia. bears S. 15 E. 35 links dist. and a hickory 12 in. dia. bears S. 27 W. 32 links distant; thence N. 160 poles to a black oak, cor. No. 2, formerly a Spanish oak; thence W. with the line of No. 48, 124 poles to a locust cor. No. 3, and S. W. cor. of No. 48; thence S. 160 poles to a hickory (fallen) N. W. corner of No. 52, cor. on a small white oak; thence E. with the line of No. 52, 124 poles to the beginning, containing one hundred and twenty-four acres.

43. Tract number fifty-seven, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a maple on the W. bank of Fodder's Creek, from which a white oak six in. dia. bears N. 56 W. 12 links dist. and a white oak 6 in. dia. bears N. 22, E. 9 links dist.; thence N. 55 poles to a hickory on W. bank of said creek; thence W. with the line of No. 62, 176 poles to a b. oak, cor. 3, and S. E. cor. of 48; thence S. with the line of No. 53, 55 poles to a post oak found to be black oak; thence E. 176 poles to the beginning, containing sixty acres.

44. Tract number fifty-nine, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a maple at 16 poles N. from N. W. cor. of No. 48, from which a white oak 36 in. dia. bears S. W. 14 links distant, and a hickory 10 in. dia. bears N. 30 E. 23 links dist.; thence W. 100 poles corner a chestnut oak, formerly a stake. Thence S. 97 poles cor. on a large poplar in a cove, formerly a stake; thence E. 100 poles to cor. a black jack (not found) set a post in the line of 48; thence N. with said line 97 poles to the beginning, containing sixty acres.

45. Tract number sixty-four, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a b. oak N. E. cor. of No. 63, from which a chestnut oak, 9 in. dia. bears S. 40 W. 3 links dist., and a chestnut oak, 20 in. dia. bears N. 65 W. 30 links dist.; thence N. 114 poles to cor. a b. oak on top of a ridge; thence W. 121 poles to corner on a beech, formerly a stake, cor. 3; thence S. 114 poles to corner; thence E. with the line of No. 63, 121 poles to the beginning, containing eighty-six acres.

46. Tract number sixty-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak corner of No. 75, from which a locust 8 in. dia. bears N. 38 W. 50 links dist. and a Spanish oak 15 in. dia. bears S. 5 W. 23 links dist.; thence N. 76 poles in line of No. 64 near the top of hill; thence W. 176 poles to cor. near top of mountain cor. on a chestnut, formerly a stake; thence S. 76 poles to cor., corner on a chestnut N. W. cor. of No. 75; thence E. with the line of No. 75, 176 poles to the beginning, containing eighty acres.

47. Tract number ninety-three, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a pine N. E. cor. of No. 92, from which a hickory 6 in. dia. bears N. 35 W. 14 links dist., and a post oak 6 in. dia. bears N. 73 W. 17 links dist., and a pine 20 in. dia. bears S. 45 W. 27 links dist.; thence N. 180 poles to cor. on a locust on top of a ridge; thence W. 105 poles to cor., fallen, cor. on a black gum; thence S. 180 poles to corner on a hickory on a small branch; thence E. 105 poles to the beginning, containing one hundred and eight acres. "The beginning of this tract is in the line of No. 95, being N. from S. W. cor. 164 poles."

48. Tract number ninety-five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a black gum in a small branch, from which a white oak 6 in. dia. bears N. 78 E. 20 links dist., and a dogwood 6 in. dia. bears S. 65 E. 25 links dist., and a white oak 6 in. dia. bears S. 81 W. 34 links dist.; thence N. 39 W. 250 poles to cor. No. 2, a b. oak on top of ridge; thence W. 124 poles to corner, a stake, corner on a hickory in line of No. 93; thence S. with the line of No. 93 98 poles to the beginning cor. of No. 93, reaching cor. at 200 poles, a black jack (cut down) cor. on a black jack, corner 3; thence N. 81 E. 158 poles to cor. on top of hill, corner on a hickory, corner 4 (formerly a b. jack); thence N. 68 E. 138 poles to the beginning, containing three hundred and thirty-one acres.

49. Tract number one hundred and five, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in a cove (fallen) in a line of No. 115,

cor. on a white oak, from which a white oak 20 in. dia. bears N. 85 E. 18 links dist., and a b. oak 9 in. dia. bears N. 10 E. 46 links dist.; thence N. 69 E. 90 poles to cor. on a maple; thence S. 21 E. 130 poles cor. on a pine N. E. cor. of No. 10; thence S. 69 W. with the line of No. 101, 90 poles to N. W. cor. of 101 on top of a hill, a pine (fallen) cor. on a black gum; thence N. 21 W. with the lines of Nos. 102 and 115, 130 poles to the beginning, containing seventy-three acres.

50. Tract number one hundred and fifteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut oak in the head of a hollow, from which a chestnut 24 in. dia. bears S. 60 E. 50 links dist., and a chestnut 36 in. dia. bears N. 80 W. 50 links dist.; thence N. 21 W. 100 poles to a pine; thence N. 69 E. 100 poles to corner, a stake, cor. made on a white oak; thence S. 21 E. 100 poles to corner on a chestnut oak, corner of No. 102; thence S. 69 W. 100 poles with the line of No. 102 to the beginning, containing sixty-two acres.

51. Tract number one hundred and sixteen, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning on a pine, N. W. cor. of No. 115, from which a white oak 8 in. dia. bears N. 8 W. 40 links distant, and a b. oak 16 ins. dia. bears S. 10 E. 50 links distant; thence S. 69 W. 90 poles to a b. jack on top of a ridge (formerly) a stake; thence S. 21 E. 100 poles to a stake; thence N. 69 E. 90 poles to corner, the beginning of No. 115; thence N. 21 W. with the line of No. 115, 100 poles to the beginning, containing fifty-six acres.

52. The strip of land adjoining the Qualla boundary or reserve on the south, in Jackson Co., N. C., known as the "Thomas 500-acre survey," beginning at a post set by M. S. Temple, U. S. deputy surveyor, at the ford of Soco Creek, and running thence easterly along the water divide of the ridge S. of Soco Creek until it intersects the Indian boundary at the top of said range opposite Echota mission, and including all the land between the said water divide and the Indian boundary, bounded and more particularly described as follows, viz: & beginning at a locust post at the ford of Soco Creek, on the N. W. bank of said creek, where the road leading from Birdtown to Quallatown crosses said creek, said post being N. 3 W. 2 poles from the edge of the water; thence S. 3 E. 21 poles to a stake 12 links N. of a large red oak marked I. B.; thence S. 19 E. 13 poles; thence S. 45 E. 17 poles; thence S. 61 E. 16 poles; thence N. 76 E. 29 poles to 66-mile station in a mound in line of Indian boundary, continue N. 76 E. 34 poles; thence S. 39 E. 18 perches; thence S. 36 W. 22 poles to a small b. oak, I. B.; thence S. 16 W. 18 poles, two sourwoods I. B. on the side of a ridge; thence S.

39 E. 56 poles; thence S. 51 E. 11 poles, set a post for 66½-mile station in mound with pits, continue S. 51 E. 24 poles; thence S. 89 E. 25 poles; thence S. 89 E. 7 poles to a post I. B.; thence N. 86 E. 32 poles leave field; thence N. 86 E. 28 poles; thence N. 57 E. 43 poles, set a post for 67-mile station in mound with pits, continue N. 57 E. 16 poles; thence S. 64 E. 40 poles; thence S. 79 E. 9 poles to a white oak 22 in dia., marked I. B.; bear cor. 11 poles to a stake and rock on side of a mountain; thence S. 19 E. 16 poles; thence S. 84 E. 57 poles to a white oak 16 in. dia., I. B. bear cor., 10 poles to a post 67½-miles mile station, continue S. 84 E. 52 poles; thence N. 71 E. 17 poles, b. oak 27 in. dia., I. B.; thence N. 71 E. 23 poles; thence N. 45 E. 54 poles to a rock, formerly a white oak; thence S. 77 E. 14 poles 68 mile station post, continue S. 77 E. 24 poles; thence N. 76 E. 20 poles to a road leading from Waynesville to Quallatown, bear cor. 16 poles to a rock; thence S. 49 E. 14 poles; thence N. 76 E. 75 poles, a chestnut 16 in. dia., I. B. bear cor. 11 poles 68½-mile station post; continue N. 76 E. 94 poles; thence S. 74 E. 66 poles 69 mile station post; continue S. 74 E. 26 poles to a b. oak 36 in. dia., I. B. bear cor., 23 poles to a brook 5 links wide, bear cor. 55 poles to a small red oak on side of a mountain, former call 3 pines; thence S. 44 E. 56 poles, post of 69½-mile station, continue S. 44 E. 137 poles to a small chestnut on side of mountain; thence S. 87 W. 25 poles post, 70-mile station; continue thence S. 87 W. 160 poles post 70¼-mile station; thence S. 87 W. 160 poles post of 71-mile station, continue S. 87 W. 45 poles to a small white oak N. 77 W. 115 poles, post of 71½-mile station, continue N. 12 W. 41 poles; thence W. 22 poles to a road running from Waynesville to Quallatown; thence W. 97 poles, post of 72 mile station, continue S. 60 W. 28 poles to a post oak 26 in. dia. I. B.; thence S. 35 W 37 poles to a white oak 26 in. dia. I. B. bear cor. 9 poles to a sourwood in the Meggs and Freeman line. Closing, beginning on a double white oak on top of a divide in old boundary-line, from which a post oak 7 in. dia. bears S 42 W. 14 links dist. and a b. oak 6 in. dia. bears N. 40 E. 11 links dist. Here leave the boundary-line S. 34 E. 40 poles to a post oak on the divide; thence S. 44 E. 164 poles to a white oak on top of a high knob; thence N. 77 E. 50 poles to a Spanish oak on divide; thence N. 56 E. 23 poles to a Spanish oak on top of divide; thence N. 83 E. 24 poles, set a post on top of a knob from which a Spanish oak 6 in. dia., bears S. 73 W. 42 links dist., and a Spanish oak 14 in. dia., bears N. 50 E. 34 links dist.; thence N. 28 E. 10 poles to a small b. oak on top of divide; thence N. 83 E. 41 poles to a b. oak on top of divide near where the boundary-lines crosses the divide; thence S. 50 E. leaving divide 143 poles to a small white oak near L. L. Sherrill's house; thence S. 22 E. 20 poles to a small sourwood, cor. of old boundary and Meggs and

Freeman's line. This tract contains four hundred and one and one-quarter acres after deducting the number of acres of land within this tract awarded by Barringer, Dillard, and Ruffin, arbitrators (in the suit of the Eastern Band of Cherokees *vs.* W. H. Thomas *et al.*, in the U. S. circuit court for the western dist. of North Carolina, at November term, 1874), to the heirs of Charlie Hornbuckle, Chu-lo-gu-lah (or Cloud), Sa lo-lu-uetah (or Young Squirrel), Wilson Reed, and Jenne Reed, according to the survey of said individual tracts in 1875, by M. S. Temple, U. S. deputy surveyor, and embraced in his report to the Commissioner of the U. S. General Land Office dated January 13, 1876.

53. The land awarded to "Too-uah-lu-yah" (this is Too-uah-lu-keh or "Stump"), situate on San-teet-la Creek and known as the "Stump tract," in Graham Co., N. C., bounded and more particularly described as follows, viz: Beginning at a hickory in the line of No. 20 running N. 100 poles to a hickory; thence west 160 poles to a stake; thence south 100 poles to a stake in the line of No. 8, then with that line east 160 poles to beginning, containing one hundred acres.

54. The land embraced in State grant No. 1747, in district number nine, in Graham Co., N. C., on the waters of Snowbird Creek, bounded and more particularly described as follows, viz: Beginning on a large chestnut in the line of No. 362 and runs N. 53 W. 180 poles to a stake; thence S. 80 poles to a stake; thence S. 53 E. 180 poles to a stake; thence N. 90 poles to the beginning, containing one hundred acres.

55. The lot or tract of land joining the lands of Mercer Fain on the N. side of Valley River, being tract No. 16, in district number six, in Cherokee Co., N. C., bounded and more particularly described as follows, viz: Beginning at a locust on top of mountain between Valley River and Hanging Dog in the line of No. 15, from which a hickory 12 in. dia., bears N. 15 W. 11 links dist., and a b. oak 16 in. dia. bears N. 32 E. 38 links dist.; thence W. 15 poles to a chestnut oak, cor. 2, thence N. 160 poles to a stake, cor. on a chestnut, cor. 3; thence E. 75 poles to a sourwood N. W. cor. of No. 14; thence S. with the line of No. 14 160 poles to cor.; thence W. with the line of No. 15 sixty poles to beginning, containing seventy-five acres.

56. One tract of six hundred and forty acres lying on the south side of the Tennessee River at the Culertson Ford in Swain Co., N. C., bounded and more particularly described as follows, viz: Beginning on black oak on bank of river 4 poles below the Ft. Lindsay Ford, running thence with the old treaty line S. 65 E. 92 poles to a turn; thence S. 35 E. 66 poles to a turn on the ridge; thence S. 25 W. 24 poles to a turn; thence S. 75 E. 76 poles to a turn in the ridge; thence S. 40 E. 24 poles to a turn in the ridge; thence N. 50 E. 36 poles to a turn; thence

S. 70 E. 48 poles to a turn; thence S. 25 E. 34 poles to a Spanish oak on the said treaty line; thence N. 50 E. 100 poles to a turn; thence S. 45 E. 360 poles to a stake on said line; thence N. 370 poles to a stake bank of Tennessee River; thence down said river with its meanders 590 poles to the beginning, containing six hundred and forty acres, be the same more or less, according to a survey made in 1838.

57. One fifty-acre tract lying on the east side of Newton's Mill Creek joining lands of Uriah Cooper and the Qualla boundary, in Swain Co., N. C., bounded and more particularly described as follows, viz: Beginning on the E. bank of said creek at a white oak sapling on line of No. 89; thence E. with said line of No. 89 85 poles to a hickory; thence N. 30 E. 52 poles to a white oak on the side of a ridge cor. of No. 91; thence N. with line of No. 91 58 poles to a hickory; thence E. 86 poles to a maple on the E. bank of said Newton's Mill Creek; thence down with the meanders of the creek to the beginning, containing fifty acres.

58. One piece or parcel of land in the Catheart or Brown entry outside of the Qualla boundary and joining the same, in Swain Co., N. C., bounded, more particularly described, as follows, viz: Beginning at the post where the northwest line of the Catheart or Brown survey crosses the Qualla boundary line, said post being N. 60 W. 5 chains and 37 links from the 34th-mile station in the Qualla boundary line, from which a white oak 15 in. dia. bears N. 50 E. 20 links dist., and a Spanish oak 6 in. dia. bears S. 60 W. 29 links dist.; a white oak 12 in. dia. bears S. 36 links dist.; a chestnut 6 in. dia. bears S. 10 E. 27 links dist.; a Spanish oak 6 in. dia. bears S. 40 E. 25 links dist.; a locust 6 in. dia. bears N. 28 links dist.; thence S. 47½ W., formerly S. 45 W. 562 poles with said Catheart line to a stake in said line; thence S. 42½ east 575 poles to the Qualla boundary line between the 37 and 36½ mile stations in said line; thence in a northerly direction with the said Qualla boundary line to the beginning, containing twelve hundred and thirty (1,230) acres.

59. One tract embracing the "Amanda Gaither Cove," joining Seroop Enloe and W. H. Thomas' lands and Qualla boundary in Jackson Co., N. C., bounded and more particularly described as follows, viz: Beginning at a post on top of the ridge which forms the western boundary of said cove at the point where Ah-ma-cha-na's line crosses said ridge running S. 22 E. 24 poles to a chestnut oak corner of I. B., passing 63½ mile station at 3 poles; thence S. 40 E. 24 poles to a Spanish oak cor. I. B.; thence S. 16 W. 62 poles to a locust corner of I. B.; then S. 43 W. 60 poles to a b. oak, passing the 63 mile station at 52 poles; then with the top of main mountain S. 40 E. 49 poles to a hickory on top of mountain; then down the ridge which forms the eastern boundary of said cove N. 63 E. 20 poles to a stake N. 88 E. 14 poles to a large c. oak

N. 52 E. 36 poles to S. oak; then N. 50 E. 56 poles to a b. gum, N. 27 E. 20 poles to a stake; then S. 78 E. 12 poles to a S. oak, N. 72 E. 10 poles to a c. oak in Enloe's line; then with his line N. 34 W. 64 poles to a locust; then N. 45 E. 42 poles to a S. oak in I. B., crossing Soco at poles; then with I. B. N. 60 W. 82 poles to a post I. B.; then W. 6 poles to a stake crossing Soco; then down said creek as it meanders N. 55 W. 48 poles to the month of said creek; then down Ocona Lufty River 58 poles to a watered oak corner of I. B.; then S. 28 E. 60 poles to a white walnut; then S. 28 W. 21 poles to a white oak; then S. 40 E. 10 poles to a S. oak; then S. 14 E. 6 poles to the beginning, containing one hundred and twenty-eight acres.

60. One tract known as the "Thomas Mill Tract," lying across Soco Creek, joining Qualla boundary, in Jackson Co., N. C., bounded and more particularly described as follows, viz: Beginning at a black oak on the ridge between Soco Creek and Ocona-Lufty River at a point where Scroop Enloe's line intersects the Indian boundary, and running with the boundary line 80 poles to a Spanish oak on the top of ridge, passing the 65 mile station at 26 poles; then with the top of said ridge N. 12 E. 38 poles to a stake; then N. 45 E. 18 poles to a stake corner of I. B.; then S. 70 E. 36 poles to a sycamore on the west bank of Soco Creek; then up the creek N. 25 E. 16 to the 65½ mile station; then E. 34 poles to a post at the ford of Soco; then S., crossing the creek, 70 poles to a S. oak on top of a knob corner of I. B. S. 22 E. 10 poles to a stake; then S. 60 E. 40 poles to corner of I. B.; then S. 65 W. 21 poles to the beginning, containing forty-three acres.

61. Entry five hundred and sixty, known as the "3,200-acre tract," lying on the S. side of the Tuckaseege River, in Swaine Co., N. C., joining lands of Abel Hyatt, Willgeeske's heirs, John Cooper, James Gibbs, and others, bounded and more particularly described as follows, viz: Beginning on a black walnut on the bank of a branch on the S. of Tuckaseege River opposite Mark Coleman's; runs thence N. 30 W. 72 poles to a white walnut on the bank of the river at the mouth of the falls branch, passing the falls at 20 poles; thence up with the meanders of Tuckaseege River on the S. side 980 poles to a water birch on the bank; thence N. 80 E., crossing the river 12 poles to a black gum on the N. bank, 18 poles below the falls at the upper end of J. M. Bird's farm; thence up with the meanders of the N. side 320 poles to a Spanish oak on the bank opposite a large island in the river; thence S. 20 E. crossing the river 20 poles to a large maple on the S. side of said river, the lower cor. of No. 19, Gibb's corner; thence with Gibb's line 274 poles to a large pine in the line of No. 90; thence with that tract N. 55 W. 20 poles to a Spanish oak in a hollow; thence S. 15 W. 146 poles to a lo-

cust, passing three small branches; thence with the line of No. 91 S. 90 poles to a dogwood on the side of a hill; thence E. 22 poles to a birch at the S. W. corner of No. 91; thence S. 31 E. 176 poles to a white oak, the N. E. cor. of No. 1525; thence with said tract S. 70 W. 30 poles to a Spanish oak; thence S. 60 W. 156 poles to a stake cor. of 1525; thence S. 13 E. 234 poles to a Spanish oak cor. of two tracks, Nos. 95 and 97; thence N. 55 W. 200 poles to a scrubby chestnut oak near the top of a ridge; thence S. 75 W. 98 poles to a Spanish oak on a ridge; thence S. 30 W. 60 poles to a hickory; thence S. 48 E. 35 poles to a large chestnut near a branch, the beginning of No. 97; thence S. 65 W. 40 poles to a maple; thence S. 10 W. 80 poles to a Spanish oak in a cove; thence S. 75 E. 72 poles to a small black oak on a ridge; thence S. 40 W. 96 poles to a scrubby Spanish oak on top of a mountain; thence S. 85 W. 136 poles to a small black oak on the top of a ridge; thence S. 30 W. 106 poles to a black oak on top of a ridge on a cliff known as the Rattlesnake Den; thence S. 15 W. 40 poles to a chestnut on a ridge in the old county line between Jackson and Macon; thence with the said old county line 820 poles to a small black oak on the top of the mountain S. 25 W. from Britton Medlin's, passing the Sherrill Gap at 650 poles; thence leaving the old county line, running around lands of Brit. Medlin, Shuler, and Brendle, leaving them on the outside, N. 74 poles to a Spanish oak on the top of a ridge; thence N. 24 E. 58 poles to 3 large pines on the top of a ridge; thence N. 5 E. 155 poles to a large white oak near the top of a ridge; thence N. 75 E. 36 poles to a Spanish oak on a ridge; thence E. 72 poles to a large black oak in Johnson Kirkland's line; thence S. 70 E. with Kirkland's line 32 poles to a poplar, Kirkland's corner; thence N. 25 E. 50 poles to a stake; thence S. 55 E. 34 poles to a scrubby hickory on mountain side in Wm. Kirkland's line; thence with that line W. 22 poles to a pine to Kirkland's corner; thence S. 64 poles to a pine; thence E. 126 poles to a bunch of small lynns on the creek bank; thence N. 64 poles to a small hickory and Spanish oak; thence W. 32 poles to a locust, beginning cor. of James Kirkland; thence N. 45 E. with James Kirkland's line 35 poles to a Spanish oak on the creek bank; thence S. 40 E. 144 poles to a large chestnut oak; thence N. 45 E. 128 poles to a black oak; thence N. 40 W. 68 poles to a Spanish oak; thence N. 85 E. 120 poles to a pine; thence N. 24 W. 105 poles to a black oak, corner of 1173, on the bank of a creek, in the line of No. 1172; thence with tract No. 1173 S. 75 E. 173 poles to a stake; thence N. 84 E. 63 poles to a stake; thence N. 58 W. 74 poles to two chestnut oaks; thence N. 58 W. 62 poles to a hickory; thence W. 30 poles to a chestnut oak; thence N. 90 poles to a black oak in a hollow; thence W. 68 poles to a small black oak in a hollow, cor of tract No. 4825; thence

with the line of that tract N. 52 poles to a small hickory; thence N. 45 W. 14 poles to a white oak below Baggs' Cove; thence N. 26 E. 66 poles to a large ash on the S. bank of Tuckaseege River; thence up with the meanders of the river 64 poles to a bellwood; thence S. 31 E. 73 poles to the beginning, containing two thousand seven hundred and eighty acres. In this conveyance it is intended to convey only the lands embraced in said entry No. 560 agreeably to the State grant and survey thereof, which excluded deeded lands defined by metes and bounds within the boundary of said entry which belong mostly to the persons named above as owning joining lands, comprising eleven tracts, embracing 1,009¼ acres; then also excluding (320) three hundred and twenty acres from said entry No. 560, a survey of which has been ordered by the superior court of Swaine Co., N. C., to use and benefit of Sarah A. Burchfield, which said court confines to 320 acres joining Abel Hyatt's lands within the boundary of the grant from the State; also excluding one hundred acres on both sides of Skeekee's Branch, awarded by Barringer, Dillard, and Ruffin, arbitrators, October 23, 1874, to the heirs of an Indian named Littlejohn, leaving of said entry No. 560 two thousand seven hundred and eighty acres, and embraced in this indenture as aforesaid.

62. Tract number six, in district number twelve, in Swaine County, N. C., bounded and more particularly described as follows, viz: Beginning on a post oak the S. W. cor. of No. 4 and runs S. 8 W. 110 poles to a black oak in the gap of a ridge; thence S. 42 E. 54 poles to a pine on the bank of Tennessee River; thence down the meanders of the river to persimmon on the bank of the river the upper corner of No. 3; thence N. 8 E. with that line 119 poles to a white oak; thence N. 82 W. 92. poles to the beginning, containing seventy-three acres.

63. Tract number nine, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a post oak the N. W. cor. of No. 8 and runs S. 82 E. 166 poles to a stake on the bank of the Tennessee River; thence up the river to a stake, the lower corner of No. 4; thence S. 8 W. 73 poles to a Spanish oak; thence N. 82 W. 220 poles to a black oak; thence N. 8. E. 115 poles to the beginning, containing one hundred and thirty acres.

64. Tract number ten, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a white oak the N. W. cor. of No. 7 and runs N. 82 W. 80 poles to a Spanish oak; thence N. 8 E. 102 poles to a pine; thence S. 82 E. 80 poles to a stake and pointers, N. W. cor. of No. 9; thence S. 8 W. 102 poles to the beginning, containing fifty-one acres.

65. Tract number eleven, in district twelve, in Swaine Co., N. C.,

bounded and more particularly described as follows, viz: Beginning on a post oak and runs N. 82 W. 80 poles to a turkey oak; thence S. 8 W. 132 poles to a stake; thence S. 82 E. 80 poles to a Spanish oak, the S. W. cor. of No. 10; thence N. 8 E. 132 poles to the beginning, containing sixty-six acres.

66. Tract number thirteen, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a beach on the S. E. bank of Tennessee River near the lower point of an island and runs S. 8 W. 42 poles to a black oak; thence S. 84 E. 42 poles to a black oak; thence S. 8 W. 33 poles to a black oak; thence S. 79 E. 68 poles to a chestnut on W. bank of Nantahala River 18 poles above its mouth; thence down the river passing its junction to the beginning, containing fifty-eight acres.

67. Tract number forty-one, in district number twelve, in Swaine Co., N. C., bounded and more particularly described as follows, viz: Beginning on a maple on N. W. bank of Nantahala River at the lower point of an island and runs S. 46 W. 124 poles to a chestnut S. E. cor. of No. 40; thence S. 61 E. 120 poles to a stake; thence N. 19 E. 70 poles to a Spanish oak on the bank of river; thence down the main northern sluice of the river to the beginning, containing sixty-five acres.

68. Tract number forty-four, in district number twelve, in Swain Co., N. C., bounded and more particularly described as follows, viz: Beginning on a chestnut S. E. cor. of No. 40, and runs S. 29 W. 160 poles to a Spanish oak; thence N. 61 W. 66 poles to a black gum; thence N. 29 E. 160 poles to a locust on the line of No. 40; thence S. 61 E. 66 poles to the beginning, containing sixty-six acres. The said several tracts hereinbefore mentioned containing in the aggregate fifteen thousand two hundred and eleven and one-fourth acres more or less.

Together with all the improvements, ways, easements, rights, privileges, appurtenances, and hereditaments to same belonging or in anywise appertaining, and all the remainders, reversions, rents, issues, and profits thereof; all the estate, right, title, interest, claim, and demand whatsoever, either at law or in equity, of the said parties of the first part, of, in, to, or out of the said pieces or parcels of land and premises; to have and to hold the said pieces or parcels of land and premises, with the appurtenances, unto the said party of the second part, the Commissioner of Indian Affairs and his successors in office, as trustee for the use and benefit of the Eastern Band of Cherokee Indians of the State of North Carolina forever; and the said William Johnston and his wife, Lucinda M. Johnston, for themselves, their heirs, executors, and administrators, do hereby covenant, promise, and agree to and with

the said party of the second part that they and their heirs shall and will warrant and forever defend the said pieces or parcels of land and premises and appurtenances free and discharged from the lawful claims of all parties claiming the same by, through, or under them, or either of them, and no further; and the said William L. Hilliard, as guardian aforesaid, does hereby convey all the right, title, and interest of the said William H. Thomas in and to said lands, and does hereby covenant, promise, and agree that he will warrant and forever defend the said pieces or parcels of land free and discharged from all claims of all persons claiming same by, through, or under him or said Thomas and his heirs, so far as he is authorized and required by virtue of his office as guardian under said order of the probate court of Jackson Co., N. C., and no further, and the said James W. Terrell and Thomas D. Johnston, for themselves as commissioners under the aforesaid award and order of court, and also as agents and attorneys as aforesaid, hereby covenant, promise, and agree that they will warrant and forever defend the said pieces or parcels of land free and discharged from the claims of all persons claiming same by, through, or under them, so far as they are authorized and required to do by virtue of their offices as commissioners and agents and attorneys aforesaid, and no further.

In testimony whereof the said parties of the first part have hereunto set their hands and seals this 14th day of August, A. D. 1880.

WM. JOHNSTON. [SEAL.]
LUCINDA M. JOHNSTON. [SEAL.]
W. L. HILLIARD, *Guardian.* [L. B.]
JAS. W. TERRELL,
Comm'r and Attorney for W. H. Thomas.
THOS. D. JOHNSTON, [SEAL.]
Comm'r & Att'y for W. H. Thomas.

In probate court.

NORTH CAROLINA,
Buncombe Co.:

I, E. W. Herndon, probate judge for county and State aforesaid, do hereby certify that William Johnston and wife, Lucinda M. Johnston, and William L. Hilliard, guardian of William H. Thomas, as aforesaid, of Buncombe Co., State of North Carolina, personally appeared before me this 14th day of August, 1880, and acknowledged the due execution of the annexed deed of conveyance, and the said Lucinda M. Johnston, being by me privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband, or any other person, and that she doth still volun-

tarily assent thereto. Also, at the same time and place, personally appeared before me James W. Terrell, of Jackson Co., N. C., and Thomas D. Johnston, of Buncombe Co., N. C., commissioners and attorneys as aforesaid, and acknowledged the due execution of the annexed deed of conveyance. Therefore, let the same, with this certificate, be registered. Given under my hand and official seal.

[SEAL.] E. W. HERNDON,
Judge of Probate.

In the probate court.

SWAIN COUNTY:

It is adjudged that the foregoing certificate of probate by E. W. Herndon, probate judge of Buncombe County, is correct and genuine. Therefore, let the deed, with the certificate of probate, be registered in Swain County. This Sept. 11th, 1880.

SAM. B. GIBSON,
Probate Judge.

REGISTER'S OFFICE OF SWAIN COUNTY, NORTH CAROLINA.

I, T. H. Parrish, register of deeds for said county, do certify that the foregoing deed, with certificates of probates, was duly registered in this office in book "B," No. "2," beginning on page 342, and ending on page 375, this the 14th day of Sept., A. D. 1880.

T. H. PARRISH,
Register of Deeds for said County.

In the probate court.

STATE OF NORTH CAROLINA,
Jackson County:

I, A. M. Parker, probate judge and clerk superior court of Jackson County, do adjudge from the certificate and seal of E. W. Herndon, clerk and probate judge of Buncombe County, North Carolina, to be correct. Therefore, let this deed with the certificates be registered this 1st day of October, 1880.

A. M. PARKER,
Probate Judge.

OFFICE OF REGISTER OF DEEDS, *Oct.* 1, 1880.

STATE OF NORTH CAROLINA,
Jackson County:

The within deed and certificates were this day duly registered on pages 374 to 403 inclusive, book G.

A. J. LONG,
Register of Deeds.

OFFICE JUDGE OF PROBATE.

NORTH CAROLINA,
Graham County:

It is adjudged that the foregoing certificate of probate by E. W. Herndon, probate judge of Buncombe County, is correct and genuine.

Therefore, let the said deed together with certificates of probate be registered in our county of Graham.

JOHN G. TATHAM,
Probate Judge, Graham County.

OFFICE OF REGISTER OF DEEDS.

NORTH CAROLINA,
Graham County:

I, W. F. Manney, reg. of deeds for and in said county of Graham, certify that the foregoing deed of conveyance together with certificates were duly registered in the register's office, in said county of Graham, in book B, commencing on page 1st and ending on page 32.

This October the 29, 1880.

W. F. MANNEY,
Register of Deeds, Graham County.

OFFICE OF JUDGE OF PROBATE, *November* 1, 1880.

STATE OF NORTH CAROLINA,
Cherokee County:

I, Jas. C. Axley, judge of probate in and for said county, do hereby adjudge that the foregoing deed is duly acknowledged.

Therefore let the same be registered.

Given under my hand at office in Murphy, the date above written.

JAS. C. AXLEY,
Judge of Probate.

The foregoing deed and certificates came to hand November the 1st, 1880, and were registered in book R, beginning on the page number 28, and ending on page 62.

J. W. HENNESO,
Register of Deeds, Cherokee County.

EXHIBIT E.

Whereas under an award made by Rufus Barringer, John H. Dillard, and Thomas Ruffin, arbitrators in the case of the "Eastern Band of Cherokee Indians *against* William H. Thomas, William Johnston, *et al.*,"

in the circuit court of the United States for the western district of North Carolina, James W. Terrell and Thomas D. Johnston were, by a decree of said court, appointed commissioners to sell certain lands referred to in said award to discharge and pay off the judgments therein awarded to be due William Johnston from William H. Thomas, which said lands had theretofore been sold under executions on said judgments and conveyed by deeds executed by the sheriff of the counties of Cherokee, Macon, and Jackson, to said William Johnston; and whereas since the date of said decree said judgments have been purchased by and duly assigned to the Commissioner of Indian Affairs of the United States in trust and for the benefit of the Eastern Band of Cherokees, and on the 14th day of August, A. D. 1876, an act of Congress was passed and ratified authorizing the Commissioner of Indian Affairs to purchase and receive certain lands therein referred to in full payment and final discharge of the aforesaid judgments in trust and for the use and benefit of said Eastern Band of Cherokees; and whereas in pursuance to the provisions of said act of Congress, Mark C. King, on the part of the Commissioner of Indian Affairs, and William A. Dill, on the part of Wm. H. Thomas, were selected as appraisers to value and appraise the lands hereinafter described which are referred to in the aforementioned award and were duly selected by said Eastern Band of Cherokees through a committee appointed by them at their annual general council held at Cheoah council grounds, in Graham County, North Carolina, on the first Monday of October, A. D. 1876, said appraisals being ratified and approved by the said "the Commissioner of Indian Affairs:"

Now, therefore, in consideration of the above recited facts and in satisfaction of the said judgments, amounting at this date to twenty thousand five hundred and sixty-one and 85-100 dollars, the following indenture is executed:

This indenture, made and executed this the 9th day of October, A. D. 1876, between William Johnston and wife, Lucinda M. Johnston, of the county of Buncombe, State of North Carolina, and James W. Terrell, of Jackson County, and Thomas D. Johnston, of Buncombe County, State aforesaid, commissioners named in said award and agents and attorneys for William H. Thomas, by virtue of a power of attorney to them, dated the 3rd day of June, 1875, a copy of which is hereto annexed, of the first part; and the Commissioner of Indian Affairs, as trustee for said Eastern Band of Cherokee Indians, of the second part, witnesseth:

That the said parties of the first part, in consideration of the premises and in the further consideration of the payment of the amount and final discharge of said judgments, the receipt whereof is hereby confessed and acknowledged, have bargained, sold, remised, released, and

quit-claimed, and by these presents do bargain, sell, remise, release, and quit claim to the party of the second part as trustee for the Eastern Band of Cherokee Indians of the State of North Carolina, all their right, title, interest, claim, or demand whatsoever, in and to the following described lands, to wit:

In Graham County, North Carolina, district number nine, grant number ninety-six containing 228 acres, more or less.

2. Grant number eighty-six, containing 138 acres, more or less.
3. Grant number ninety, containing 141 acres, more or less.
4. Grant number one hundred, containing 138 acres, more or less.
5. Grant number eighty-seven, containing 180 acres.
6. Grant number eighty-nine, containing 50 acres.
7. Grant number seventy-nine, containing 60 acres.
8. Grant number seventy-six, containing 140 acres.
9. Grant number ninety-four, containing 204 acres.
10. Grant number seventeen, containing 118 acres.
11. Grant number ninety-five, containing 222 acres.
12. Grant number seventy-seven, containing 166 acres.
13. Grant number seventy-five, containing 137 acres.
14. Grant number ninety-one, containing 229 acres.
15. Grant number eighty eight, containing 100 acres.
16. Grant number one hundred and two, containing 269 acres.
17. Grant number ninety-two, containing 120 acres.
18. Grant number eighty-one, containing 202 acres.
19. Grant number forty-seven, containing 68 acres.
20. Grant number twenty-nine, containing 65 acres.
21. Grant number one hundred and three, containing 105 acres.
22. Grant number three hundred and sixty-nine, containing 100 acres.
23. Grant number twenty, containing 225 acres.
24. Grant number eighteen, containing 91 acres.
25. Grant number one hundred & one, containing 151 acres.
26. Grant number fifty-five, containing 50 acres.
27. Grant number thirty-seven, containing 76 acres.
28. Grant number twenty-five, containing 346 acres.
29. Grant number nine, containing 269 acres.
30. Grant number twenty-two, containing 400 acres.
31. Grant number thirteen, containing 303 acres.
32. Grant number two, containing 227 acres.
33. Grant number fifteen, containing 275 acres.
34. Grant number three, containing 254 acres.

In district number ten (10):

35. Grant number eight, containing 400 acres.

36. Grant number one, containing 262 acres.

37. Grant number five hundred and eighty-four, containing 100 acres.

38. Grant number four hundred and eighty-two, containing 100 acres.

39. Grant number three hundred and eighty-nine, containing 100 acres; amounting in the aggregate to six thousand eight hundred and nine acres in the county of Graham.

In Jackson County, the following lands:

40. The strip of land adjoining the Qualla boundary on the south, beginning at a post set by M. S. Temple, surveyor, at the ford of Soco Creek, running thence easterly along the water divide of the ridge, south of Soco Creek, until it intersects the Indian boundary at the top of said ridge, opposite Echota Mission, and including all the lands between the said water divide and the present Indian boundary, containing 700 acres, more or less.

In Cherokee County:

41. The lot in Cherokee County, on the headwaters of Valley River, now occupied by Eli Ingram, containing 100 acres, more or less.

42. Also a lot in such county adjoining the lands of Messrs. Fair, on the north side of Valley River, in district number six, containing one hundred acres, more or less.

43. Also three thousand and fifty-two acres of land lying on the waters of Valley River and Vengeance Creek, comprising tracts to be hereafter surveyed, and so as to embrace the lands occupied by Johnson Greybeard and Nancy and Rose Hawkins. The above being the lands selected by the Indians and described in the report of the appraisers; also the following lands mentioned in the aforesaid award, to wit:

44. In Cherokee County, the lands occupied by the Indian Chinaque or John Owl, containing 100 acres.

45. The lands occupied by Richard Henson and others and their heirs, containing 210 acres.

46. Lands occupied by Richard Henson and others, containing one hundred and fifty-seven acres.

47. Lands occupied by Richard Henson and others and their heirs, containing 2,700 acres.

The last three tracts being Dist. No. 5, and comprising what is known as the "Henson Donation."

In Graham County, the following lands:

48. Lands occupied by Dickageeskin's heirs, containing 100 acres, being section 367, in district nine.

49. Lands occupied by Ootalkanah, section three hundred seventy-three, in district nine, containing one hundred acres.

50. Lands occupied by Two-way-allah, part of number twelve, in district No. 10, containing 100 acres.

51. Lands occupied by Cornsilk, section five hundred and eighty-eight, in district nine, containing 100 acres.

52. Lands of Tracking Wolf, section four hundred and four, district No. 9, containing 83 acres.

53. Lands of Salkanah and others, district number six, containing eighty acres.

54. Lands of Ter-a-tees-kah, in district No. nine, containing 100 acres.

55. Lands of George Ooyahsteah, section 365, in district No. 9, containing 100 acres.

56. Lands of Cah-nah-a-to go and others, section 405, in district No. 9, containing 100 acres.

57. Lands of Coheloskah, section 93, in district No. 9, containing 120 acres.

58. Lands of Too-nah-lee-yah, in district nine, containing 100 acres.

59. Lands of Cheesquenetak, in district nine, containing 100 acres.

60. Lands of Te-tal-kanah, in district nine, containing 100 acres.

The aggregate number of acres of lands described in said award being four thousand four hundred and fifty, and lying in Cherokee and Graham Counties.

To have and to hold the aforesaid lands and premises, with all the appurtenances thereunto belonging, to the said "the Commissioner of Indian Affairs" and his successors in office, as trustee for the use and benefit of the Eastern Band of Cherokee Indians of North Carolina forever; and the said William Johnston and Lucinda M. Johnston do covenant to and with the party of the second part, that they will warrant and defend the interests herein conveyed by them free and discharged from the lawful claims of all parties claiming the same by, through, or under them, or either of them; and the said James W. Terrell and Thomas D. Johnston, as commissioners and agents aforesaid, do covenant that they will warrant and defend the same free from the claims of all persons claiming same by, through, or under them, so far forth as they are authorized and required to do by virtue of their offices as commissioners and agents aforesaid, and no further.

In testimony whereof the parties of the first part have hereunto set their hands and seals this the 9th day of October, A. D. 1876.

In presence of:

Wm. Johnston.	[SEAL.]
L. M. Johnston.	[SEAL.]
Jas. W. Terrell.	[SEAL.]
Thos. D. Johnston.	[SEAL.]

In the probate court.

BUNCOMBE COUNTY:

Be it known that on this, the 9th day of October, 1876, before the undersigned, judge of probate in and for said county of Buncombe, personally came William Johnston and wife, Lucinda M. Johnston, and Thomas D. Johnston, of Buncombe County, and James W. Terrell, of Jackson County, the parties described in and who executed the foregoing deed of conveyance to "the Commissioner of Indian Affairs," and each duly acknowledged the execution by himself and herself of said deed for the purposes therein mentioned. And thereupon the said Lucinda M. Johnston, being by me privately examined, separate and apart from her said husband, doth declare upon such examination that she executed the same freely, voluntarily, and of her own accord, without any fear, force, or undue influence on the part of her said husband or any one else, and that she doth still voluntarily assent thereto.

Therefore let said deed and their certificate be registered.

[SEAL.] J. E. REED,

Judge of Probate.